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2 (Pages 5 to 8)

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<p>1 Q. And what's his job title?</p> <p>2 A. Senior litigation processor.</p> <p>3 Q. And how long have you been so employed, ma'am?</p> <p>4 A. Eight years.</p> <p>5 Q. In the present position?</p> <p>6 A. No.</p> <p>7 Q. So you have been employed eight years; is that</p> <p>8 with Litton Loans?</p> <p>9 A. Yes.</p> <p>10 Q. All right. And with respect to your</p> <p>11 employment with Litton Loans, how did you begin your</p> <p>12 employment with them?</p> <p>13 A. How did I begin?</p> <p>14 Q. What was your initial hiring-in job title?</p> <p>15 A. Bankruptcy specialist.</p> <p>16 Q. Okay. And would that be within the portion of</p> <p>17 Litton Loans that handles servicing of mortgage accounts</p> <p>18 in bankruptcy?</p> <p>19 A. Yes.</p> <p>20 Q. And what did you do in that position?</p> <p>21 A. Proof of claim referrals, plan review.</p> <p>22 Q. All right. And is that basically where you</p> <p>23 take in a plan that you receive from whatever reporting</p> <p>24 service your company uses, whether it's Banco or AACER</p> <p>25 or whatever, and you verify that it's actually your</p>	<p>1 And if I ask something, please do what you did and tell</p> <p>2 me if you don't understand, because I don't want to</p> <p>3 confuse you in any way.</p> <p>4 At least a portion of the decision</p> <p>5 process that you would make in that original job</p> <p>6 description would be based upon the information that you</p> <p>7 put into your system, right? In other words, you treat</p> <p>8 a Chapter 7 different than a Chapter 13, right?</p> <p>9 A. Yes.</p> <p>10 Q. And you might treat different Chapter 13s</p> <p>11 different. For instance, if a filer has filed for the</p> <p>12 third or fourth time in a short amount of time, you</p> <p>13 might treat that bankruptcy different than somebody</p> <p>14 who's never filed before, right?</p> <p>15 A. (Witness nods head.) Yeah.</p> <p>16 Q. And that is one thing I will ask you to do.</p> <p>17 We will need a verbal answer. All of us tend to nod our</p> <p>18 heads and things when we talk. So if you don't give a</p> <p>19 verbal answer, I'll prompt you or maybe Robin will</p> <p>20 prompt you so we can keep a good record for the Court.</p> <p>21 One of the things that -- at least part</p> <p>22 of the decision making matrix for Litton in the job</p> <p>23 position that you're describing is based upon what</p> <p>24 information is input into the system from the bankruptcy</p> <p>25 filing which you receive from your reporting service,</p>
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<p>1 mortgage account that you're servicing and then you</p> <p>2 start preparing a proof of claim?</p> <p>3 A. Yes.</p> <p>4 Q. And then at that point, do you identify what</p> <p>5 amounts to include in a proof of claim, what amounts to</p> <p>6 include in an arrearage, and make decisions about</p> <p>7 whether or not to pursue relief of stay, that sort of</p> <p>8 thing?</p> <p>9 A. Yes. I have done that, yes.</p> <p>10 Q. Was that part of your original job</p> <p>11 description?</p> <p>12 A. Yes.</p> <p>13 Q. And is that all based upon information that</p> <p>14 you receive from a computer programming software that</p> <p>15 your company uses and the information that you input</p> <p>16 into that data or into that system?</p> <p>17 A. Yes. It's based on information that's on the</p> <p>18 system.</p> <p>19 Q. And a portion at least of some of those</p> <p>20 decisions is based upon the input that the operators</p> <p>21 input into the system about the bankruptcy filing,</p> <p>22 right?</p> <p>23 A. I'm not sure I understand that -- that</p> <p>24 question.</p> <p>25 Q. And maybe I wasn't clear, and I'll try again.</p>	<p>1 correct?</p> <p>2 A. No.</p> <p>3 Q. Once you enter the data into the system from a</p> <p>4 new bankruptcy filing, are there a series -- or is</p> <p>5 there a decision making tree or matrix that's set up</p> <p>6 within the system that you follow as an operator?</p> <p>7 A. No.</p> <p>8 Q. Okay. Where do you go for direction as to how</p> <p>9 to handle each bankruptcy account as it's filed?</p> <p>10 A. That information normally would come from the</p> <p>11 local attorney that was assigned to the case.</p> <p>12 Q. So for a case that is assigned to the Middle</p> <p>13 District of Alabama, where the Sirote firm is assigned</p> <p>14 to it, they would give you recommendations about how to</p> <p>15 handle that case and then you would follow those</p> <p>16 directions?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Does your -- to the best of your</p> <p>19 knowledge, does your firm contract directly with local</p> <p>20 attorneys for these services or does your firm work</p> <p>21 through an outside provider, such as Lender Processing</p> <p>22 Services?</p> <p>23 MS. BEARDSLEY: Object to the form. I'm</p> <p>24 just objecting to the form of the question. You can</p> <p>25 answer, if you know.</p>

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<p>1 A. They use outsource providers.</p> <p>2 Q. (BY MR. WOOTEN) And one of those outsource</p> <p>3 providers is a company that used to be known as Fidelity</p> <p>4 National Information and Bankruptcy -- or Foreclosure</p> <p>5 and Bankruptcy Services. It's now known as Lender</p> <p>6 Process Services. They call it LPS Default; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Other than LPS Default, is there any other</p> <p>10 outsource provider that your company uses for that type</p> <p>11 of service?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Who else would you use?</p> <p>14 A. National Bankruptcy Services.</p> <p>15 Q. Okay. And who is that affiliated with?</p> <p>16 A. It's affiliated with Brice, Vanderlinden &amp;</p> <p>17 Wernick.</p> <p>18 Q. So that's the processing service that the</p> <p>19 national law firm Brice, Vanderlinden had started a few</p> <p>20 years ago, right?</p> <p>21 A. Yes.</p> <p>22 Q. Do you also use Promise Solutions?</p> <p>23 A. Yes.</p> <p>24 Q. And they're affiliated with -- is that McCalla</p> <p>25 Raymer's outfit or Morris, Schneider &amp; Prior?</p>	<p>1 is located?</p> <p>2 A. Atlanta, Georgia.</p> <p>3 Q. Greater Atlanta area?</p> <p>4 A. Yes.</p> <p>5 Q. Is it actually Alpharetta?</p> <p>6 A. I don't know the exact city.</p> <p>7 Q. But it's within what you consider Atlanta,</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And in that capacity, do they monitor those</p> <p>11 accounts and talk to you about when it's time to take</p> <p>12 certain actions and that sort of thing?</p> <p>13 A. Yes.</p> <p>14 Q. And are those accounts transferred to them</p> <p>15 electronically?</p> <p>16 A. Yes.</p> <p>17 Q. And are they transferred at the time at which</p> <p>18 the loan is -- the borrower files bankruptcy?</p> <p>19 A. Correct.</p> <p>20 Q. Do you have a contract for services with</p> <p>21 McCalla Raymer or Promise Solutions?</p> <p>22 A. Yes.</p> <p>23 Q. Does that contract for services set forth what</p> <p>24 your company will pay Promise Solutions for those</p> <p>25 services?</p>
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<p>1 A. McCalla Raymer.</p> <p>2 Q. Okay. And other than Promise and the Brice,</p> <p>3 Vanderlinden outfit, are there any other outsource</p> <p>4 providers that you use?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Is there any rhyme or reason as to who your</p> <p>7 company chooses to assign these accounts to, these</p> <p>8 various outsource providers --</p> <p>9 A. No.</p> <p>10 Q. -- if you know?</p> <p>11 A. No. I don't know.</p> <p>12 Q. So it might be geographically, it may be based</p> <p>13 on the investor, or might be some other reason, right?</p> <p>14 A. Right.</p> <p>15 Q. So at least at your level, it's somewhat</p> <p>16 random. Is that true?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Do you know who the outsource provider</p> <p>19 is for this particular loan?</p> <p>20 A. McCalla Raymer.</p> <p>21 Q. Okay.</p> <p>22 A. I'm sorry. Promise.</p> <p>23 Q. Promise through McCalla Raymer, right?</p> <p>24 A. Yes.</p> <p>25 Q. And do you know where Promise's headquarters</p>	<p>1 A. I believe it does.</p> <p>2 Q. Do you know if it has an arrangement setting</p> <p>3 forth what attorney fees will be paid, to whom they will</p> <p>4 be paid for the services performed in relation to these</p> <p>5 accounts?</p> <p>6 A. I do not know.</p> <p>7 Q. When you assign an account out to an outsource</p> <p>8 provider, is it fair to say that the outsource provider</p> <p>9 assumes all control and direction over how that account</p> <p>10 is managed during the bankruptcy process?</p> <p>11 A. I don't know if they have full authority to --</p> <p>12 I don't know what their authority level is.</p> <p>13 Q. Okay. Do you know if they make determinations</p> <p>14 about the application of payments?</p> <p>15 A. How do you mean?</p> <p>16 Q. When a client makes a payment in a</p> <p>17 bankruptcy -- and let's try to break this down a little</p> <p>18 bit, so that it's real clear.</p> <p>19 A. Okay.</p> <p>20 Q. You would agree with me that when you file a</p> <p>21 Chapter 13 bankruptcy, two things going on: You have a</p> <p>22 borrower who continued allegedly to make their direct</p> <p>23 post-petition payments as if there'd never been a</p> <p>24 default of any type, right?</p> <p>25 A. Yes.</p>

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<p>1 Q. And that continues to come due under the</p> <p>2 normal terms of the mortgage just as if they had never</p> <p>3 been behind a penny, right?</p> <p>4 A. Right.</p> <p>5 Q. And then the amount that they are behind at</p> <p>6 the time of filing is generally included in what we all</p> <p>7 refer to as a proof of claim and it's generally called</p> <p>8 an arrearage amount, right?</p> <p>9 A. Yes.</p> <p>10 Q. And that arrearage amount is basically a</p> <p>11 static, certain, identifiable number as of the date of</p> <p>12 filing, right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And that arrearage is typically paid</p> <p>15 through the Chapter 13 plan through the trustee's office</p> <p>16 on a monthly basis, right?</p> <p>17 A. Yes.</p> <p>18 Q. And that is typically paid in addition to the</p> <p>19 monthly mortgage payment, correct?</p> <p>20 A. Correct.</p> <p>21 MS. BEARDSLEY: Nick, I don't mean to</p> <p>22 interrupt, but do you mean it's paid by the --</p> <p>23 MR. WOOTEN: The trustee.</p> <p>24 MS. BEARDSLEY: -- by the trustee to</p> <p>25 the --</p>	<p>1 what you were saying.</p> <p>2 Q. Would you like me to restate it?</p> <p>3 A. Yes, please.</p> <p>4 Q. The trustee payment, the portion of the</p> <p>5 bankruptcy payment that the client makes monthly into</p> <p>6 bankruptcy court that is attributable to the mortgage</p> <p>7 arrearage, within your accounting software, you make</p> <p>8 provision for that payment to be applied to the mortgage</p> <p>9 arrearage, the amount in the proof of claim, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And with respect to the direct monthly</p> <p>12 mortgage payment that is ongoing, that money comes in</p> <p>13 and it continues to be applied, at least in theory, to</p> <p>14 the normal amortization of the mortgage over the 30-year</p> <p>15 period, correct?</p> <p>16 A. Yes.</p> <p>17 MS. BEARDSLEY: I'm going to object to</p> <p>18 the form. When you say "normal," you mean</p> <p>19 post-petition?</p> <p>20 MR. WOOTEN: The direct -- post-petition</p> <p>21 direct payments.</p> <p>22 MS. BEARDSLEY: Yes.</p> <p>23 Q. (BY MR. WOOTEN) And you agree with me,</p> <p>24 wouldn't you, ma'am, that once a debtor has filed a</p> <p>25 Chapter 13 bankruptcy, such as Ms. Hudson here, and a</p>
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<p>1 MR. WOOTEN: The arrearage is paid</p> <p>2 through the trustee's office.</p> <p>3 MS. BEARDSLEY: I know that, but the</p> <p>4 payments from the borrower are made to the trustee.</p> <p>5 MR. WOOTEN: No. The payments from the</p> <p>6 borrower on the mortgage are paid direct.</p> <p>7 MS. BEARDSLEY: Oh, I know that. I'm</p> <p>8 talking about the arrearage.</p> <p>9 MR. WOOTEN: Right. The borrower pays</p> <p>10 the bankruptcy payment into the bankruptcy court.</p> <p>11 MS. BEARDSLEY: Right.</p> <p>12 MR. WOOTEN: And they split that payment</p> <p>13 up among all the borrower's creditors, car or credit</p> <p>14 card or mortgage, whatever else.</p> <p>15 MS. BEARDSLEY: Yeah.</p> <p>16 Q. (BY MR. WOOTEN) And then the portion on that</p> <p>17 bankruptcy payment that is assigned to the mortgage</p> <p>18 arrearage is paid by the trustee on a monthly basis,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. And within your accounting software, within</p> <p>22 your servicing software, you make allowances for the</p> <p>23 trustee payments to be applied to the arrearage, right?</p> <p>24 I'm sorry. Did I ask a bad question?</p> <p>25 A. No, I'm trying to determine if I understand</p>	<p>1 plan has been confirmed and your claim has been</p> <p>2 approved, that from that point forward, her loan is to</p> <p>3 be treated as if it is not in default post-petition</p> <p>4 unless and until that debtor misses another</p> <p>5 post-petition payment. Is that fair?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Now, with respect to that, what that</p> <p>8 means is that on the date of filing of the bankruptcy</p> <p>9 petition, whatever amount is delinquent as of that day,</p> <p>10 that amount becomes part of the proof of claim and</p> <p>11 unless the debtor misses another post-petition payment,</p> <p>12 the debtor should not be accruing any additional charges</p> <p>13 other than her normal monthly amortization of her</p> <p>14 payment, correct?</p> <p>15 A. Theoretically, I would say that that is</p> <p>16 correct.</p> <p>17 Q. Practically, it's sometimes different, isn't</p> <p>18 it?</p> <p>19 A. Yes.</p> <p>20 Q. There are certain things within your software</p> <p>21 system that are set to charge to an account based on a</p> <p>22 contractual due date, correct?</p> <p>23 A. Yeah, that would be a fair statement. Yes.</p> <p>24 Q. Okay. Name everything that you are aware of</p> <p>25 that is charged to an account based upon the contractual</p>

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<p>1 due date.</p> <p>2 MS. BEARDSLEY: Object to the form.</p> <p>3 A. I don't agree with -- or I'm not saying that</p> <p>4 things are charged to an account just because it is</p> <p>5 contractually delinquent; however, due to the</p> <p>6 delinquency on the account, there may be certain actions</p> <p>7 taken on the account which may prompt a charge to the</p> <p>8 account.</p> <p>9 Q. (BY MR. WOOTEN) Okay. And that delinquency</p> <p>10 we talked about is the delinquency that is encompassed</p> <p>11 in the proof of claim amount and the arrearage in the</p> <p>12 Chapter 13 plan, right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And that is based on a contractual</p> <p>15 delinquency, right?</p> <p>16 MS. BEARDSLEY: Object to the form.</p> <p>17 Q. (BY MR. WOOTEN) In other words, typically a</p> <p>18 person files a Chapter 13 bankruptcy because they're</p> <p>19 trying to save their home and that's pretty much the</p> <p>20 only way to stave off foreclosure is to file a</p> <p>21 Chapter 13 and pay that delinquency over time, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Within your accounting system, you track the</p> <p>24 contractual due date throughout the time you service the</p> <p>25 loan, correct?</p>	<p>1 Q. Tell me what you mean by "if an inspection has</p> <p>2 actually been performed."</p> <p>3 A. Well, you stated that an inspection fee is</p> <p>4 assessed if the loan is contractually delinquent. The</p> <p>5 answer to that is: Yes, a charge will be assessed to</p> <p>6 the account if the service is performed.</p> <p>7 Q. Right.</p> <p>8 A. Yes.</p> <p>9 Q. And the reason that your software system</p> <p>10 requests that inspection is based on the days delinquent</p> <p>11 as figured by the contractual due date, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So if a borrower is 90 days delinquent</p> <p>14 at the time of filing their bankruptcy in your system,</p> <p>15 then the entire time that they're in bankruptcy, your</p> <p>16 system is going to show them as at least 90 days</p> <p>17 delinquent if they pay every post-petition payment</p> <p>18 perfectly, right?</p> <p>19 MS. BEARDSLEY: Object to the form.</p> <p>20 A. Can you restate that please. I'm sorry.</p> <p>21 Q. (BY MR. WOOTEN) Sure. Let's assume that a</p> <p>22 bankruptcy debtor files Chapter 13 and then they have a</p> <p>23 60-month plan.</p> <p>24 A. Okay.</p> <p>25 Q. At the date of filing, they're 90 days</p>
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<p>1 A. Yes.</p> <p>2 Q. So irrespective of how you actually apply</p> <p>3 payments in a spreadsheet that you present to the Court</p> <p>4 for review, the constant in your accounting software is</p> <p>5 that you track what your accounting software recognizes</p> <p>6 as the contractual due date, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And within your accounting software -- within</p> <p>9 your mortgage servicing software -- excuse me -- there</p> <p>10 are certain activities that are tied to a certain amount</p> <p>11 of time that the loan is contractually delinquent,</p> <p>12 right?</p> <p>13 A. I don't understand what that means.</p> <p>14 Q. Well, let me be a little more specific.</p> <p>15 Take, for instance, a drive-by</p> <p>16 inspection.</p> <p>17 A. Okay.</p> <p>18 Q. You charge a drive-by inspection based on an</p> <p>19 account being contractually delinquent a certain number</p> <p>20 of days, correct?</p> <p>21 A. Yes. If an inspection has actually been</p> <p>22 performed, yes.</p> <p>23 Q. I'm sorry. You said, "If an inspection has</p> <p>24 actually been performed."</p> <p>25 A. Yes.</p>	<p>1 delinquent; they've missed three months' payments, okay?</p> <p>2 A. Yes.</p> <p>3 Q. For that whole 60 months, they pay every</p> <p>4 monthly mortgage payment on time; it's in your office</p> <p>5 the day that it's due like clockwork, right?</p> <p>6 A. Yes.</p> <p>7 Q. At the end of that 60 months, your system will</p> <p>8 still show them as 90 days delinquent, will it not?</p> <p>9 A. If they have made every single payment and the</p> <p>10 plan has not been paid, yes, it will.</p> <p>11 Q. So unless and until there is a post-discharge</p> <p>12 audit of a completed plan with all payments made, that</p> <p>13 plan or that debtor will show up as at least 90 days</p> <p>14 contractually delinquent, right?</p> <p>15 MS. BEARDSLEY: Object to the form.</p> <p>16 Q. (BY MR. WOOTEN) Under that scenario we just</p> <p>17 went over.</p> <p>18 A. Yes.</p> <p>19 Q. So during the term of that plan, your software</p> <p>20 system is set up to continue to request certain</p> <p>21 activities to be done based upon a 90-day delinquency as</p> <p>22 recognized by your software system, right?</p> <p>23 A. I don't state that that is the norm across the</p> <p>24 board, but in some instances that may occur.</p> <p>25 Q. What instances does that occur in?</p>

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<p>1 A. In the instance that you just spoke of, that 2 may occur. 3 Q. Isn't it a fact that every loan that you 4 service that's in Chapter 13 bankruptcy would be treated 5 in that fashion during the term of the plan? 6 A. Not necessarily. 7 Q. Well, let's assume that any chapter bankruptcy 8 that you service where there's a mortgage delinquency -- 9 A. Uh-huh. 10 Q. -- that whatever the date -- whatever -- let 11 me rephrase that -- however many days delinquent that 12 debtor is when they file -- 13 A. Uh-huh. 14 Q. -- your system will show them at least that 15 many days delinquent throughout the life of the plan, 16 even if they pay every payment post-petition on time? 17 A. Yes, if there have been no arrear payments 18 tendered, yes. 19 Q. Are you saying that as the arrearage is paid 20 that your computer system will update their date of 21 delinquency? 22 A. Yes. 23 Q. So that is a sliding scale based on as the 24 arrearage is applied from trustee payments, correct? 25 A. Yes.</p>	<p>1 Q. Okay. So when we talk about the things that 2 will be charged based on the contractual date of 3 delinquency, things like a drive-by inspection charge -- 4 A. Okay. 5 Q. -- you order that when a loan is how many days 6 delinquent? 7 A. Well, that depends. 8 Q. Does that depend on the servicing criteria for 9 the particular mortgage loan pool you're dealing with? 10 A. Yes, it will depend on who's the current 11 beneficiary and their requirements. 12 Q. When you say beneficiary, you're talking about 13 the investor on the loan, right? 14 A. Correct. 15 Q. The person who is alleged to be the owner of 16 the debt. 17 A. Correct. 18 Q. Okay. And you'd agree with me that your 19 company acts as a mortgage servicer for hundreds if not 20 thousands of investors? 21 A. Yes, we act as a servicer for many different 22 parties, yes. 23 Q. Okay. And this particular loan that we're 24 here about today is alleged to be part of a -- what's 25 called a REMIC trust, where the loan was sold to a trust</p>
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<p>1 Q. So in a few minutes, when we get into my 2 client's spreadsheet that you brought today, we'll be 3 able to see that date of delinquency adjust, right? 4 A. Yes, if payments -- arrear payments were made, 5 yes, we will see that. 6 Q. And the contractual due date will adjust. Is 7 that your testimony? 8 A. Yes. 9 Q. Now, the contractual due date is tied to 10 requests for certain charges to be performed in your 11 software, correct? 12 MS. BEARDSLEY: Object to the form. 13 A. In some instances, yes. 14 Q. (BY MR. WOOTEN) Okay. There are certain 15 charges that are referred to as automatics or something 16 of that nature, is that fair? 17 A. No, I don't think that that's fair. 18 Q. Okay. When I say automatic, I mean that once 19 a loan reaches a certain level of delinquency, these 20 charges will be requested on a repeating basis until 21 that delinquency is cured. Is that fair? 22 A. Depending on the delinquency, certain services 23 may be requested to be performed and depending on the 24 delinquency will depend on the frequency of such 25 charges.</p>	<p>1 for the purpose of selling investment bonds; is that 2 correct? 3 A. I don't -- I don't know the details. 4 Q. Okay. You will agree that your system 5 indicates that the trust owns this loan, right? 6 A. Correct. 7 Q. And you would agree that the trust would 8 acquire that loan, if it acquired that loan, based upon 9 the trust agreement which created that trust, correct? 10 A. I don't really know the process behind it. 11 Q. So what you're familiar with is what the 12 screen tells you on the computer when you look at it, 13 right? 14 MS. BEARDSLEY: Object to the form. 15 Q. (BY MR. WOOTEN) With respect to the instance 16 of ownership. 17 A. Yes. 18 Q. Okay. Were you involved in gathering the 19 documents that we requested during discovery and for 20 this deposition? 21 A. No. 22 Q. Would that have been Mr. Loch? 23 A. Yes. 24 Q. Prior to coming today, did you verify that he 25 had produced all the documents or did you talk with</p>

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<p>1 your -- and don't tell me what you said to your 2 attorneys, but did you make any effort to verify that 3 you have given us all the information in your mortgage 4 loan file regarding this loan? 5 A. Yes, I looked into it. 6 Q. Okay. Is it your testimony that you have 7 produced every mortgage assignment related to this loan? 8 A. I don't -- I don't know. 9 Q. Okay. That would be information that you 10 would have either in your files or have available to 11 you, correct? 12 A. Yes. 13 Q. So if we request it from you and there are 14 some here, would you expect that that would be all that 15 were in your records? 16 A. I do know what was on file was provided. If 17 there are additional assignments, I don't know. 18 Q. Well, you would agree that the assignments 19 that purport to convey the mortgage note to the mortgage 20 trust would be the assignments that you were relying on 21 when you filed a motion for relief from stay in the 22 Bankruptcy Court in the Middle District of Alabama, 23 wouldn't you? 24 A. Yes. 25 Q. Then you would agree that whatever</p>	<p>1 A. Can you say that again. 2 Q. Sure. I'll represent to you that this loan is 3 alleged to be part of a securitized trust of which 4 Litton Loans is a party to the trust agreement to act as 5 the servicer. So whatever that contract says with 6 respect to your rights to servicing would be the rights 7 that you have with respect to the servicing of this 8 loan, correct? 9 A. Yes. 10 Q. With respect to the issue of the application 11 of, for instance, the drive-by inspection fee, you said 12 that the right to charge that fee would be based upon 13 the requirements of the investor. 14 A. I did not say that the rights to charge would 15 be based on the requirements of the investor. I stated 16 that the frequency in which such service is obtained is 17 based on the investor requirements. 18 Q. Are you familiar with the software systems, 19 including the mortgage servicing software, that you 20 used? Are you familiar with those systems at all? 21 A. Yes, I'm familiar. 22 Q. Are you aware as to whether or not this loan 23 is serviced on the MSP, which is Mortgage Servicing 24 Program, provided by LPS? 25 A. No.</p>
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<p>1 endorsements to the promissory note are present and 2 whatever allonges to the promissory note are present 3 would be all of the allonges and endorsements that you 4 have in your records? 5 MS. BEARDSLEY: Object to the form. 6 A. Yes. We provided what was on file. 7 Q. (BY MR. WOOTEN) Okay. Would you agree that a 8 portion of your duties as a servicer is to verify that 9 the appropriate and required legal documents are in 10 place pursuant to whatever agreements you have to act as 11 servicer? 12 A. Yes. 13 Q. Okay. And you would agree that you have 14 access to or actual physical possession of whatever 15 records are available respecting ownership of the note 16 and the mortgage in this case, correct? 17 A. Yes. 18 Q. And you would agree that if those documents 19 were requested and documents were produced that you 20 would have produced everything that you either had 21 possession of or that you had access to? 22 A. Yes. 23 Q. And you would agree that your right to service 24 this loan arises from your agreement with respect to the 25 investors and the securitization of this loan, right?</p>	<p>1 Q. Okay. Have you -- are you familiar with 2 whether or not your company uses something called LPS 3 Desktop? 4 A. I'm not sure what that particular software is, 5 so no, I don't have knowledge. 6 Q. Are you familiar with -- we talked earlier 7 about LPS and Fidelity. 8 A. Yes. 9 Q. And that LPS Default is a subsidiary of LPS 10 dealing with the management of the loans which are in 11 foreclosure and bankruptcy, right? 12 A. Right. 13 Q. And you indicated that your company does use 14 them for some loans. 15 A. Yes. 16 Q. But you said they were not involved with this 17 loan. 18 A. Right, with respect to bankruptcy. 19 Q. Okay. Have they been involved with this loan 20 with respect to foreclosure? 21 A. Yes. 22 Q. So then you're familiar with what's called LPS 23 Desktop, which is the portal for communications between 24 the servicing agent and LPS and the attorneys who are 25 handling the foreclosure, right?</p>

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8 (Pages 29 to 32)

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<p>1 A. I know the system is used. I'm not a user.</p> <p>2 Q. Okay.</p> <p>3 A. Yes.</p> <p>4 Q. So you do not access LPS Desktop at all?</p> <p>5 A. No.</p> <p>6 Q. Are you familiar with the data that is</p> <p>7 available to your company through LPS Desktop?</p> <p>8 A. I know of some things that are available.</p> <p>9 Q. Okay. Are you familiar with the document</p> <p>10 management function of LPS Desktop?</p> <p>11 A. Not exactly, because I'm not a user, so I'm</p> <p>12 not familiar with all the functionality of the system.</p> <p>13 Q. So if I told you that LPS Desktop, the</p> <p>14 document management portion, provided your company and</p> <p>15 LPS and your attorneys copies of every document that had</p> <p>16 been entered on that system since the loan had been</p> <p>17 referred to LPS Default, you don't know?</p> <p>18 A. Yeah, I do know the answer to that, and no,</p> <p>19 they have not.</p> <p>20 Q. Are you saying that document management does</p> <p>21 not provide documents between the attorneys and servicer</p> <p>22 and LPS Default?</p> <p>23 A. Not to Litton.</p> <p>24 Q. Okay. What does it provide to Litton?</p> <p>25 A. With respect to documents, I believe it's --</p>	<p>1 Litton?</p> <p>2 A. Yes, there is more than one.</p> <p>3 Q. But you only know Leigh Ann?</p> <p>4 A. Yes.</p> <p>5 Q. Are you familiar with LPS Desktop's image</p> <p>6 management system?</p> <p>7 A. No.</p> <p>8 Q. Are you aware that that system assigns a</p> <p>9 unique identification number to every image that is</p> <p>10 uploaded onto that system?</p> <p>11 A. No, I'm not aware of that.</p> <p>12 Q. And it also identifies the person who uploads</p> <p>13 the image or who creates the image and the date and time</p> <p>14 that it was requested and uploaded? Are you familiar</p> <p>15 with that?</p> <p>16 A. No.</p> <p>17 Q. Did you make any inquiry as part of your</p> <p>18 response to the discovery in this case as to whether or</p> <p>19 not there were any documents or communications on the</p> <p>20 LPS Desktop system which were responsive to any of the</p> <p>21 requests that were made in this case?</p> <p>22 A. I did not.</p> <p>23 Q. Are you familiar with the process management</p> <p>24 portion of LPS Desktop?</p> <p>25 A. Not very familiar.</p>
Page 30	Page 32
<p>1 trustee's deed is the only document that we currently</p> <p>2 receive.</p> <p>3 Q. Okay. So you're saying that LPS Default,</p> <p>4 through its document management system, would request</p> <p>5 these documents from Deutsche Bank, the trustee?</p> <p>6 A. They will request the documents from Litton.</p> <p>7 Q. From Litton, okay. Is that an electronic</p> <p>8 process?</p> <p>9 A. Yes, it is.</p> <p>10 Q. Is that something that's automatically</p> <p>11 uploaded?</p> <p>12 A. I'm not -- to my knowledge, it's manually</p> <p>13 processed for -- somebody has to upload it to the</p> <p>14 system.</p> <p>15 Q. Do you have LPS employees on site at Litton?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know how many you have there?</p> <p>18 A. I do not.</p> <p>19 Q. Do you know the names of any of those</p> <p>20 employees?</p> <p>21 A. Only one.</p> <p>22 Q. Who is that?</p> <p>23 A. Leigh Ann Blackwell.</p> <p>24 Q. Do you have any idea as to whether or not</p> <p>25 there are more than one employee of LPS on site at</p>	<p>1 Q. Are you aware that that system tracks every</p> <p>2 step taken to manage the foreclosure of a loan in a</p> <p>3 sequential manner and numbers each transaction from the</p> <p>4 first transaction through the final transaction?</p> <p>5 A. I am aware that it tracks the foreclosure</p> <p>6 steps, yes.</p> <p>7 Q. And it also manages time lines for those steps</p> <p>8 based on the state where the property is located,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. And LPS more or less represents themselves to</p> <p>12 be an expert in managing those processes for servicers.</p> <p>13 Is that fair?</p> <p>14 MS. BEARDSLEY: Object to the form.</p> <p>15 A. Yes, I would say that that is fair.</p> <p>16 Q. (BY MR. WOOTEN) And is it also fair to say</p> <p>17 that when you refer a loan to LPS Default for</p> <p>18 foreclosure management that they take responsibility for</p> <p>19 each step of that process once it is referred until the</p> <p>20 foreclosure is completed?</p> <p>21 A. Correct.</p> <p>22 Q. And is it also fair to say that Litton</p> <p>23 authorized, through its agreement with LPS, LPS to act</p> <p>24 on Litton's behalf in the management of that loan</p> <p>25 through the foreclosure process?</p>



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9 (Pages 33 to 36)

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<p>1 A. I'm not familiar with what the arrangement is 2 with them. 3 Q. Is it -- I don't want to mischaracterize it, 4 but is it fair to say that basically you hand that loan 5 account off to them and they take it and run with it 6 once it becomes a foreclosure referral? 7 MS. BEARDSLEY: Object to the form. 8 A. No, I don't -- I don't think that that is an 9 accurate statement. 10 Q. (BY MR. WOOTEN) What decisions does Litton 11 make once the loan is referred to LPS for foreclosure? 12 A. I know Litton determines the attorney and -- 13 Q. Let me pause you there. 14 When you say Litton determines the 15 attorney, is it fair to say that Litton chooses an 16 attorney who already has an agreement with LPS to 17 provide services? 18 A. No, I wouldn't say that that is accurate. 19 Q. Okay. Do you know whether or not the Sirote 20 firm is also a member of the national network of 21 Fidelity and LPS? 22 MS. BEARDSLEY: Object to the form. 23 A. I don't know exactly what that means or what 24 their relationship is, but I would assume because they 25 are the foreclosure attorney assigned to the file that</p>	<p>1 contract between LPS and the servicer for foreclosure 2 and bankruptcy referrals -- 3 A. Okay. 4 Q. -- and then there was a contract between LPS 5 and the attorneys for services to be provided at fixed 6 rates -- 7 A. Uh-huh. 8 Q. -- but that there was never a contract between 9 the servicer and the attorney in that process. 10 A. That is my understanding. 11 Q. Okay. So I guess my question is: Are you 12 saying that this particular loan is treated differently 13 in that there is a direct contractual relationship 14 between the servicer and the attorney firm that's 15 foreclosing? 16 A. No, there isn't. 17 Q. Okay. So it is, as was testified by LPS, a 18 typical foreclosure referral? 19 A. Yes. 20 Q. And with respect to the LPS Desktop system, 21 are you aware that they have part of that program called 22 invoice management? 23 A. I was not aware. 24 Q. And are you aware that that system maintains 25 copies of every invoice submitted in the foreclosure</p>
Page 34	Page 36
<p>1 they have a relationship with Fidelity and the use of 2 that system. 3 Q. (BY MR. WOOTEN) Okay. And it's fair to say 4 that one of the selling points to you of LPS is that -- 5 or your company is that they provide you a network of 6 qualified foreclosure attorneys who have agreed to 7 provide services at a known rate so that you can know 8 that wherever you have to go foreclose, you can kind of 9 figure what your costs are? 10 MS. BEARDSLEY: Object to the form. 11 A. I do know that Fidelity has a network of 12 attorneys available. To my knowledge, Litton doesn't 13 rely on that information for the selection of attorneys. 14 Q. (BY MR. WOOTEN) Okay. So you're saying that 15 your choice of Sirote was independent of their 16 relationship with LPS and your relationship with LPS. 17 MS. BEARDSLEY: Object to the form. 18 A. Yes. 19 Q. (BY MR. WOOTEN) Okay. Are you familiar with 20 the typical contractual arrangements between LPS and the 21 servicer and the foreclosure network attorney for LPS? 22 A. State that again. 23 Q. When I deposed LPS a few months ago -- 24 A. Okay. 25 Q. -- their testimony was that there was a</p>	<p>1 process, including invoices for fees and charges which 2 are not attorneys' fees such as broker price opinions 3 and inspection charges and things of that nature? 4 A. I was not aware. 5 Q. And are you aware of the fact that they 6 maintain copies of remittances which pay those invoices 7 as part of the LPS Desktop system? 8 A. I'm not aware of that. 9 Q. Did you make any inquiry as to whether or not 10 any of the data that is available from the LPS Desktop 11 system was relevant to the inquiry for this deposition? 12 A. No, I did not. 13 Q. And it's fair to say that you did not produce 14 any of the data that is available from the LPS Desktop 15 system? 16 A. I don't know. I didn't ask for it personally, 17 so I can't say that it was or wasn't requested or was or 18 wasn't provided. 19 Q. Would you agree if it's not here, your company 20 didn't produce it, right? 21 A. If it's not here, it either wasn't produced or 22 wasn't available. 23 Q. But we know it's available because any user of 24 LPS Desktop can go in and print the stuff off, right? 25 A. Well, you were speaking of invoices.</p>

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<p>1 Q. Sure.</p> <p>2 A. And to my knowledge, we don't use any software</p> <p>3 related to LPS and invoicing.</p> <p>4 Q. Okay. And I didn't say that you did.</p> <p>5 They take an actual invoice, much like</p> <p>6 the ones that you produced today, and scan it into their</p> <p>7 system and store it there if it's related to this loan.</p> <p>8 A. Okay.</p> <p>9 Q. So my point being is that you just didn't</p> <p>10 produce any documents related to LPS Desktop, right?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. With respect to Promise Solutions, how do you</p> <p>13 typically communicate with Promise Solutions?</p> <p>14 A. How do you mean exactly, like --</p> <p>15 Q. How do they keep you apprised of the work that</p> <p>16 they're doing for you with respect to the bankruptcy</p> <p>17 file?</p> <p>18 A. They update the records in their system, and</p> <p>19 that information is transmitted to Litton and uploaded</p> <p>20 into our system.</p> <p>21 Q. Okay. What is your company's name for your</p> <p>22 system?</p> <p>23 A. RADAR.</p> <p>24 Q. Okay. Are you familiar with the term LSAMS?</p> <p>25 A. Yes.</p>	<p>1 Q. And is it fair to say that typically you would</p> <p>2 take that raw data and use that raw data to prepare a</p> <p>3 spreadsheet such as --</p> <p>4 THE WITNESS: That's two copies.</p> <p>5 MS. BEARDSLEY: It's two copies of the</p> <p>6 same thing.</p> <p>7 THE WITNESS: Two or three.</p> <p>8 MR. WOOTEN: We might want to split that</p> <p>9 up. I apologize.</p> <p>10 THE WITNESS: It's two pages per.</p> <p>11 MR. WOOTEN: Okay. So there's actually</p> <p>12 three of them, right?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. WOOTEN: That will help us a little</p> <p>15 bit. I'll give you a copy right here, so you can follow</p> <p>16 along, and I'll take this one and I'll mark it as</p> <p>17 Exhibit 2.</p> <p>18 (Plaintiff's Exhibit No. 2</p> <p>19 marked for identification.)</p> <p>20 MR. WOOTEN: And I'm terrible with names.</p> <p>21 It's Ms. Mosley, right?</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. WOOTEN: I apologize if I get your</p> <p>24 name wrong. Please don't be offended. My wife is</p> <p>25 trying to teach me how to remember somebody's name. I'm</p>
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<p>1 Q. What does that mean? Or what does that stand</p> <p>2 for maybe is a better way to say it.</p> <p>3 A. I'm going to get it wrong.</p> <p>4 Q. It's an acronym obviously.</p> <p>5 A. Right.</p> <p>6 Q. But it's related to your servicing software,</p> <p>7 isn't it?</p> <p>8 A. Yeah, it's an account managing system.</p> <p>9 Q. And I'll show you a document that we -- you</p> <p>10 brought this morning as an update, and I'm just going to</p> <p>11 mark it.</p> <p>12 (Plaintiff's Exhibit No. 1</p> <p>13 marked for identification.)</p> <p>14 Q. (BY MR. WOOTEN) Let me show you this. It's</p> <p>15 Plaintiff's Exhibit 1, and this is a Litton Loan</p> <p>16 Servicing LP Detail Transaction History. And I believe</p> <p>17 you ran that off this morning, I think.</p> <p>18 Is that the type of report that you would</p> <p>19 generate from your LSAMS software?</p> <p>20 A. Yes.</p> <p>21 Q. And is it fair to say that that is what we</p> <p>22 would typically refer to as raw data? That's just each</p> <p>23 transaction with its code and the dollar amount,</p> <p>24 correct?</p> <p>25 A. Yes.</p>	<p>1 just not any good at it.</p> <p>2 Q. (BY MR. WOOTEN) But you would take the data</p> <p>3 in Exhibit 1 and you would take that information and</p> <p>4 convert it into a spreadsheet such as Exhibit 2, right?</p> <p>5 A. Yes.</p> <p>6 Q. And that would be based upon the data that you</p> <p>7 had available in your system, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And I noticed that you have entered in the</p> <p>10 first set of yellow columns on Exhibit 2 an Unapplied</p> <p>11 Amount and a Suspense Balance. And then you've created</p> <p>12 another set of two yellow columns out to the far right</p> <p>13 of the page that says Prepetition Unapplied and</p> <p>14 Prepetition Suspense Balance, right?</p> <p>15 A. Yes.</p> <p>16 Q. And with respect to that, the headings under</p> <p>17 each of these spreadsheets, I don't see a column for</p> <p>18 trustee payments or suspense. Did you create one?</p> <p>19 A. That's the prepetition.</p> <p>20 Q. Okay. I don't see a column on page 2 either.</p> <p>21 A. Maybe I'm confused. You say you don't see a</p> <p>22 column for --</p> <p>23 Q. Trustee payments, either suspense or --</p> <p>24 A. Yes, that's on the far right-hand side.</p> <p>25 Q. So you're calling the Prepetition Unapplied</p>

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<p>1 and the Prepetition Suspense Balance where you're 2 dealing with trustee payments, right? 3 A. Yes. 4 Q. And I also noted that this runs from 5 September of 2003, which is when you picked up 6 servicing, correct? 7 A. Yes. 8 Q. And it runs only through July 31st of '08, 9 correct? 10 A. Yes. 11 Q. So the document marked as Exhibit 2 is not a 12 complete recapitulation of the data in Exhibit 1. Is 13 that fair? 14 A. Yes. 15 Q. I also noted that with respect to the entry on 16 the first page of Exhibit 2, it indicates that the first 17 bankruptcy petition filed by my client on January 25th 18 of 2005, that on that day there was a suspense balance 19 of 304.96; is that correct? 20 A. Yes. 21 Q. And 304.96 is unapplied funds that would have 22 been paid by my client but not credited to her account 23 as of the date of filing, correct? 24 A. Correct. 25 Q. Okay. And I noticed that on that date, the</p>	<p>1 someone reviewing it can determine what the exact 2 post-petition payment was? 3 A. No. 4 Q. Let me ask you this. With respect to payments 5 that are not for exactly the amount of the monthly 6 payment, does your company typically consider those 7 payments to be what the industry refers to as an 8 irregular payment? 9 A. I've never heard that term, but -- 10 Q. Never heard that term? 11 A. (Witness shakes head.) 12 Q. Do you have a term within your company for a 13 payment that is not for exactly the amount of payment 14 that is due? 15 A. Short payment. 16 Q. What about an excess payment if there's more 17 paid than what's due? Do you have a term for that? 18 A. No. 19 Q. Never see that? Okay. 20 And the reason I ask that is shortly 21 before this bankruptcy filing -- and I say shortly, a 22 few months before, there was a payment of \$700. And it 23 looks like approximately 445.63 was applied to a 24 payment, but then the difference between 700 and the 25 445.63 was placed into suspense. And that is on a</p>
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<p>1 304.96 indicates its presence as of the date of filing, 2 but what did you do with the 304.96 after my client 3 filed her first bankruptcy petition? Are you able to 4 tell that from the information that's on that sheet? 5 A. Yes. 6 Q. What exactly -- where did that money go? 7 A. It remained in suspense. 8 Q. Okay. And it was apparently deducted over 9 some time beginning March of '05. Is that fair? 10 A. Yes. 11 Q. And beginning first on March 7th of '05, 12 was the amount of 238.44 deducted? Where did that money 13 go? 14 A. It went towards the first post-petition 15 payment. 16 Q. 238.44 was not the payment amount 17 post-petition, was it? 18 A. No, it was not. 19 Q. What was the regular post-petition payment 20 amount? 21 A. I don't know. 22 Q. You don't know what the normal post-petition 23 payment was at the date of filing the first bankruptcy? 24 A. Not off the top of my head. 25 Q. Is there anywhere on that spreadsheet that</p>	<p>1 transaction for July 24th, 2004. 2 A. No. 3 Q. Okay. Explain the July 24th, 2004, line for 4 me then, please. 5 A. The customer tendered a payment amount of \$700 6 and a payment was applied totaling -- looks like 445.63 7 and the difference of 254.37 was placed into suspense. 8 Q. Okay. So if you subtract 445.63 from 700, do 9 you, in fact, get 254.37? 10 A. Yes. 11 Q. So it does appear that on the 24th that my 12 client made the \$700 payment and one payment was applied 13 to her account and the overage was added to her suspense 14 balance. 15 A. Yes. 16 Q. Okay. Does your company have a standard 17 policy for dealing with suspense balances? 18 A. They may. I'm not familiar with it. 19 Q. Are you aware of whether or not any industry 20 standards exist with respect to handling of funds held 21 in suspense? 22 A. No, I'm not. 23 Q. Are you aware of whether or not there are any 24 time limits for holding funds in suspense? 25 A. No, I'm not aware.</p>

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<p>1 Q. Is it your testimony that if there are, your 2 company should be aware of them? 3 A. Yeah. If they're available, yes. 4 Q. So if they're published by regulatory 5 authorities, governments, the GSE, Government Sponsored 6 Enterprises, like Fannie, Freddie, HUD, your company as 7 a professional mortgage servicer, you would be aware of 8 those types of things, right? 9 A. Right. 10 Q. It would be your testimony that you would do 11 your best to comply with those? 12 A. To my knowledge, I feel that they would have 13 policies in place to be able to service loans in 14 accordance to the standards. 15 Q. And if the contractual obligations state that 16 they will service them in compliance with law, that 17 would be your expectation of how this loan would have 18 been serviced, right? 19 A. Yes. 20 Q. With respect to the issue that we were 21 discussing earlier -- and I'm just going to double back 22 for a moment. 23 We talked about the inspection charges to 24 the property. Once the delinquency trigger is reached 25 to trigger the initial property inspection, what</p>	<p>1 agreement? 2 A. No, I don't agree. 3 Q. Okay. Where would that information be and who 4 would have access to it? 5 A. To my knowledge, these guides are something 6 that is kind of coded to the system so to speak. And so 7 the agents that are responsible for monitoring or 8 managing these services may not know exactly what those 9 triggers are -- 10 Q. And you said -- 11 A. -- because you can't -- 12 Q. -- you said trigger. What are the triggers 13 within your system? 14 A. I don't know. 15 Q. Who in your facility would have that 16 information? 17 A. That I do not know. 18 Q. Would that fall within the servicing function 19 or the bankruptcy department of Litton? 20 A. That would be a servicing function. 21 Q. Do you know who is in charge of servicing for 22 Litton? 23 A. A lot of people. 24 Q. Okay. How is the servicing department broken 25 down for Litton?</p>
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<p>1 information is your company looking for with respect to 2 the property inspection? 3 A. The property inspection is primarily used to 4 verify the occupancy status of the property and the 5 condition of the property. 6 Q. All right. Once your company establishes that 7 the property is occupied and that it is in a normal 8 state of repair, what are the conditions under which 9 your company will order another property inspection? 10 A. That will depend on what the investor requests 11 us to do, whatever that -- whatever that threshold is. 12 Q. Okay. Is it your testimony that the 13 inspections are set to recur based on the passage of 14 time alone? 15 MS. BEARDSLEY: Object to the form. 16 A. No, it's not -- to my knowledge, it's not 17 based on a particular date but rather the delinquency or 18 the severity of the delinquency. 19 Q. (BY MR. WOOTEN) Do you know what the initial 20 delinquency has to be before the first property 21 inspection is ordered? 22 A. I do not. 23 Q. Would you agree that this information would be 24 readily available to the persons who are managing the 25 account either at Litton or through an outsource</p>	<p>1 A. It's broken down by various departments. 2 Q. Tell me every department you are aware of in 3 servicing. 4 A. Collections. 5 Q. Obviously, right? 6 A. Foreclosure, bankruptcy, REO. 7 Q. And REO stands for real estate owned, right? 8 A. Yes. 9 Q. And that is the department that manages 10 properties that Litton has acquired through the 11 foreclosure process, right? 12 A. That's correct. 13 Q. Sorry to interrupt you. I wanted to make that 14 clear on the record. 15 A. Value -- I think there's valuations. 16 Q. And that is people who would set, for lack of 17 a better term, a guesstimate of what the property should 18 be worth in that particular market, right? 19 A. Yes. They manage the values that we use, yes. 20 Q. Okay. Now, is that internal values or is that 21 values for foreclosure, values for sale? What are they 22 valuing? 23 A. They are valuing -- they value all properties 24 maybe with the exception of REO. 25 Q. Okay. Now, other than the departments that</p>

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<p>1 you've already mentioned, are there any other 2 departments that you are aware of in Litton? 3 A. There are other departments, but those that I 4 previously named are the ones that come to my mind when 5 I think of servicing -- servicing the loans. It's kind 6 of how we -- how they have it structured, but there are 7 other departments throughout the company. 8 Q. Do you have a department that deals with loans 9 which are not in default and handles, for lack of a 10 better term, nondefaulted mortgage servicing? 11 A. No, not a particular department. 12 Q. Okay. So a loan file may bounce around among 13 departments depending on its status? 14 A. That's an accurate statement, yes. 15 Q. Do you know who is in charge of the bankruptcy 16 department? 17 A. The name of the person? 18 Q. Right. 19 A. John Crandall. 20 Q. Can you spell his last name for me. 21 A. C-R-A-N-D-A-L-L. 22 Q. Okay. What about the foreclosure department? 23 A. Debra Lyman. 24 Q. Can you spell Debra's last name. 25 A. L-Y-M-A-N.</p>	<p>1 managers there versus one for most of the other areas? 2 MS. BEARDSLEY: Object to the form. 3 Q. (BY MR. WOOTEN) If you know. 4 A. The collections department is structured where 5 there's, I think, like maybe two different -- 6 Q. Groups? 7 A. -- groups. And it depends on the -- or maybe 8 three different groups, but it depends on the 9 delinquency. How delinquent it is -- it kind of depends 10 on where the loan would fall. 11 Q. So you -- maybe you have a group that deals 12 with people who are very rarely late and maybe a month 13 behind, and then you have a group that's somebody who's 14 near foreclosure, more serious, and constantly behind, 15 right? 16 MS. BEARDSLEY: Object to the form. 17 A. Yes, we have a -- the last that I knew, the 18 departments were broken down into an early stage, late 19 stage, collection stage. 20 Q. (BY MR. WOOTEN) Okay. You said that you had 21 been at Litton eight years, and you started out as a 22 bankruptcy processor. 23 A. Yes. 24 Q. What other jobs have you had at Litton? 25 A. I've only worked in two departments, the</p>
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<p>1 Q. Does she spell that D-E-B-R-A? 2 A. D-E-B-R-A. 3 Q. Do you have a loss mitigation department? 4 A. Yes, we do. 5 Q. And who runs that department, please, ma'am? 6 A. Debbie Thayer. 7 Q. Is that T-H-A-Y-E-R? 8 A. Yes. 9 Q. And do you know who runs your collections 10 department? 11 A. I believe it's Oscar Southall and Toby 12 Gallegos. 13 Q. Does Mr. Southall spell his name 14 S-O-U-T-H-A-L-L? 15 A. Yes. 16 Q. And Mr. -- I think you said Gallegos? 17 A. Yes. 18 Q. I assume that's a Hispanic spelling. Would 19 that be G-A-L-L-E-G-O-S? 20 A. Yes. 21 Q. Okay. And those two gentleman, you said, are 22 in charge of collections? 23 A. Yes. 24 Q. Is that because of the number of staff and the 25 amount of work they have going on, or why are there two</p>	<p>1 bankruptcy department and now the legal department. 2 Q. Let me ask you this. Is there also a 3 cashiering group for Litton? 4 A. Yes. 5 Q. Do you know who the manager or supervisor of 6 that group is? 7 A. Lynn Lindsey. 8 Q. Is that L-I-N-D-S-E-Y? 9 A. Yes. 10 Q. Among these various departments, I'm assuming 11 that it would be possible that that borrower might be 12 contacted by more than one department within relatively 13 short intervals. 14 A. That could be possible. 15 Q. And I'm assuming that your departments have 16 some function within your software system where they 17 have the ability to notate their contacts with any 18 particular borrower, correct? 19 A. Yes. 20 Q. And that would typically be -- like in a 21 collection department, there would be a collection log 22 where they notate their writings and calls; and if they 23 made recordings, notate that, that sort of thing? 24 A. Yes. 25 Q. And they would make whatever comments there</p>

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<p>1 were about what they found out or what they were hoping 2 to find out and that sort of thing, right? 3 A. Yes. 4 Q. Did you make any inquiry as to whether or not 5 there were any notes or logs from any of these other 6 departments related to Lorraine Hudson's mortgage 7 account? 8 A. Yes. 9 Q. Okay. Were there any? 10 A. Yes. 11 Q. Did you bring those today? 12 A. No. 13 Q. That's something that you could more or less 14 just print off, right? 15 A. Yes. 16 Q. And there would have been entries, I'm 17 assuming, for Ms. Hudson's account from multiple 18 departments within your company, right? 19 A. Correct. 20 Q. You would have had something called a 21 consolidated notes log or something of that nature which 22 would have had all those contacts, right? 23 A. Yes. 24 MS. BEARDSLEY: And, Nick, just to 25 interject, we do have the comment logs, but it's got</p>	<p>1 MS. BEARDSLEY: Yes. 2 Q. (BY MR. WOOTEN) You've never worked in just 3 simple mortgage servicing for Litton; is that correct, 4 Ms. Mosley? 5 A. I don't know if I exactly know what just 6 normal servicing is, but -- 7 Q. Let's say nondefaulted servicing. 8 A. No. 9 Q. And that's not really a big part of your 10 company's business, is it? 11 MS. BEARDSLEY: Hopefully it is a big 12 part. I hope most people are not defaulting. 13 A. We have a lot of both. 14 Q. (BY MR. WOOTEN) Okay. Do you segregate those 15 two groups in any way, or are they all in the same 16 location? 17 A. How do you mean? 18 Q. Do you have, for lack of a better term, a 19 portion of the company that's dedicated to nondefaulted 20 mortgage servicing versus dedicated to defaulted 21 mortgage servicing? 22 A. No, not to my knowledge. 23 MR. WOOTEN: Robin, are there any other 24 documents that y'all think are relevant that you haven't 25 produced, other than what we've talked about, something</p>
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<p>1 attorney-client privileged just about on every other 2 line, so -- 3 Q. (BY MR. WOOTEN) Does that include the LPS 4 stuff in there or, is it -- 5 A. (Witness nods head.) 6 Q. It does? 7 MS. BEARDSLEY: I don't know. I just 8 know that -- 9 MR. WOOTEN: It's got comments back and 10 forth between the attorneys? 11 MS. BEARDSLEY: -- I looked through it, 12 and it's -- 13 MR. WOOTEN: So y'all have to redact 14 that? Is that the issue? 15 MS. BEARDSLEY: Uh-huh. Yeah. 16 MR. WOOTEN: Okay. And that's fine. 17 Q. (BY MR. WOOTEN) So what you're saying is that 18 y'all have looked and you're trying to make an effort to 19 produce it, but you have to have time to redact 20 privileged information? 21 A. That's correct. 22 Q. Sure. And I can understand that. 23 MS. BEARDSLEY: Yes. 24 MR. WOOTEN: And we can get back together 25 on how to deal with that at some point.</p>	<p>1 you're waiting to redact? 2 MS. BEARDSLEY: No, those are the only 3 two that I have for redaction, some of the additional 4 property inspections and then the comment log. 5 MR. WOOTEN: Sure. 6 THE WITNESS: The forced placed 7 insurance. 8 MS. BEARDSLEY: Oh, I'm sorry. She told 9 me that this morning, that she's requested the proof of 10 the forced placed insurance that was in place on that 11 property. 12 THE WITNESS: The payments. 13 MS. BEARDSLEY: The payments on that. 14 MR. WOOTEN: Do y'all want a take a 15 little break? 16 MS. BEARDSLEY: Yes, sure. 17 (Recess taken from 9:40 a.m. to 18 9:52 a.m.) 19 Q. (BY MR. WOOTEN) We were talking about 20 documents that y'all have produced and everything. One 21 of the things that I haven't seen today -- and I don't 22 know. Maybe -- Robin, I don't want to misstate 23 anything. But did y'all bring a code sheet today, code 24 list? 25 MS. BEARDSLEY: I don't think there is</p>

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<p>1 one, from what I've been told.</p> <p>2 Q. (BY MR. WOOTEN) Let me show you what I'm</p> <p>3 going to mark as Plaintiff's Exhibit 3.</p> <p>4 (Plaintiff's Exhibit No. 3</p> <p>5 marked for identification.)</p> <p>6 Q. (BY MR. WOOTEN) I'll ask you to took a look</p> <p>7 at that, Ms. Mosley.</p> <p>8 I'm not throwing things towards you. I</p> <p>9 apologize. It's a big table.</p> <p>10 Have you ever seen this document before?</p> <p>11 A. I've seen a document that looks similar to</p> <p>12 this, yes.</p> <p>13 Q. Does this appear to be a code sheet from</p> <p>14 Litton Loans?</p> <p>15 A. Yes, it is a code sheet, but I can't verify</p> <p>16 that it's from Litton, but yes.</p> <p>17 Q. If you look down at the lower footnote, it</p> <p>18 says "Litton versus Floyd" and it says "Litton 0007."</p> <p>19 A. Okay.</p> <p>20 Q. And I'll represent to you that that was a code</p> <p>21 sheet that was produced by another law firm in another</p> <p>22 case that I'm litigating currently with Litton. And it</p> <p>23 does say at the top of the page December 5th, 2007, but</p> <p>24 in going through the records you provided, it appeared</p> <p>25 most of these codes were accurate.</p>	<p>1 A. Yes.</p> <p>2 Q. Do you know that code 14-99 typically deals</p> <p>3 with a late charge?</p> <p>4 A. Yes.</p> <p>5 Q. So does that appear to be correct, at least</p> <p>6 from your review of the code sheet I produced to you and</p> <p>7 the Plaintiff's Exhibit 1?</p> <p>8 A. Yes.</p> <p>9 Q. Would you be comfortable relying on the codes</p> <p>10 that are exhibited in Plaintiff's Exhibit 3 to interpret</p> <p>11 the data on Plaintiff's Exhibit 1?</p> <p>12 A. Yes.</p> <p>13 Q. Is it your testimony that based on your</p> <p>14 investigation, there is not a current code sheet such as</p> <p>15 Plaintiff's Exhibit 3 that was readily accessible to you</p> <p>16 as you prepared for this deposition?</p> <p>17 A. That's correct.</p> <p>18 Q. And is it your testimony that Litton has</p> <p>19 discontinued the use of transaction codes?</p> <p>20 A. I have no knowledge of that.</p> <p>21 Q. I'm assuming that the Plaintiff's Exhibit 1</p> <p>22 would be from the older transaction to the newest; is</p> <p>23 that correct?</p> <p>24 A. Transaction 10.</p> <p>25 Q. What's the date of that transaction?</p>
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<p>1 As far as you know, are you familiar</p> <p>2 with -- I think they indicated a transaction number on</p> <p>3 the lower left or on the left column of this sheet?</p> <p>4 A. (Witness nods head.)</p> <p>5 Q. If you'll take Plaintiff's Exhibit 1 and just</p> <p>6 open it up to a random transaction and tell me which</p> <p>7 transaction it is and tell me which code it is. If you</p> <p>8 can do that by giving me the date.</p> <p>9 A. On Exhibit 1, Tran No. 166, Transaction</p> <p>10 No. 166, dated August 16th, 2006.</p> <p>11 Q. Okay. And what is that entry on that</p> <p>12 Exhibit 1?</p> <p>13 A. It's an entry for a late charge.</p> <p>14 Q. And does it have a code there on that?</p> <p>15 A. Yes.</p> <p>16 Q. And what is that code?</p> <p>17 A. 1499.</p> <p>18 Q. 1399?</p> <p>19 A. 1499.</p> <p>20 Q. 1499. And if you flip to the second page</p> <p>21 numbered Litton 08, it says "Fee Assessment, System" and</p> <p>22 it says out to the far right column, "Increase fee</p> <p>23 balance due for fee code."</p> <p>24 Does that correspond with the transaction</p> <p>25 that seems to be entered that you randomly sampled?</p>	<p>1 A. October the 2nd, 2003.</p> <p>2 Q. And so that's the last page of Exhibit 1?</p> <p>3 A. Yes.</p> <p>4 Q. So that would be -- the first page after the</p> <p>5 cover page, what would be the second page of the</p> <p>6 cumulative exhibit, would be the most recent</p> <p>7 transactions, right?</p> <p>8 A. Correct.</p> <p>9 Q. And was that one of the pages -- one of the</p> <p>10 codes that you just sampled?</p> <p>11 A. Yes.</p> <p>12 Q. So that would be a 2009 transaction?</p> <p>13 A. Correct.</p> <p>14 Q. And it is still coded apparently with the same</p> <p>15 transaction code shown in Plaintiff's Exhibit 3?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So at least from the document you</p> <p>18 produced this morning, it appears that the same</p> <p>19 transaction codes are still in use today that were in</p> <p>20 use with respect to this other matter I'm involved in,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know how many motions for relief from</p> <p>24 stay were filed by your company in Ms. Hudson's</p> <p>25 bankruptcy filing that took place in 2007?</p>

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<p>1 A. I believe there was one motion for relief 2 filed for the 2007 case. 3 Q. Okay. Where on Plaintiff's Exhibit 1 would I 4 be able to identify that a bankruptcy was filed on -- by 5 my client Lorraine Hudson? 6 A. You would not. 7 Q. Okay. How would a layperson be able to 8 interpret Exhibit 1 to identify those landmarks such as 9 the filing of a bankruptcy, filing of a motion for 10 relief from stay? 11 A. I don't know. 12 Q. Is there any way that that could be done from 13 just that information? 14 MS. BEARDSLEY: You said "that." Are you 15 referring to Exhibit 1? 16 Q. (BY MR. WOOTEN) We're referring to Exhibit 1. 17 A. Is there any way that they can determine -- 18 Q. Would there be any entry in Plaintiff's 19 Exhibit 1 which would identify in any matter the date of 20 the filing of either of my client's bankruptcy 21 petitions, either in 2005 or 2007? 22 A. No. 23 Q. Would it require the use of codes, which we 24 talked about in Plaintiff's Exhibit 3, along with a 25 familiarity of the documents that have been filed in</p>	<p>1 Q. Is it your testimony that those entities such 2 as Promise and LPS Default maintain their own records, 3 which are then transmitted to Litton for updating? 4 A. Yes, that does occur. 5 Q. As part of your outsource agreements, do 6 Promise -- let me rephrase that. 7 As part of your outsource agreements, 8 does either Promise Solutions or LPS Default have the 9 right to assess or charge to the account of the borrower 10 any amount for any fee or charge or other service? 11 A. And when you say -- just to clarify, when you 12 say if they can -- what rights do they have, are you -- 13 are you asking do they -- can they make the entry to 14 assess the fee or can they -- what right do they have to 15 charge Litton for a service that they provided? 16 Q. Well, I guess actually sort of both, but let's 17 take the first one, where they make an entry in the 18 system requesting that a charge be assessed to the 19 account. Would they have the authority to do that? 20 A. No, they don't have the authority to assess 21 any fees or make any entries regarding specifically 22 Exhibit 1. They do not have authority to do that. 23 Q. In their transactions, do they conduct 24 activities which result in charges to the borrower's 25 account?</p>
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<p>1 this case to make those determinations? 2 A. Repeat that. 3 Q. To be able to determine the dates such as the 4 filing of the bankruptcy petitions, both 2005 and 2007, 5 would require more information than is available in 6 Plaintiff's Exhibit 1? 7 A. Yes. 8 Q. May I see Plaintiff's Exhibit 1. 9 A. (Witness hands document to counsel.) 10 Q. I don't think we made an extra copy of that. 11 MS. BEARDSLEY: I have one. 12 MR. WOOTEN: If you don't mind, I'll flip 13 through this and it will save us a little bit of time. 14 Q. (BY MR. WOOTEN) In your relationships with 15 Promise Solutions and LPS Default, do they have any 16 ability to access your computer systems to add, change, 17 modify, or update any data contained on Litton's 18 computer system? 19 A. No. 20 Q. Does Litton share with either of those 21 entities basic servicing information such as transaction 22 codes so that they can make appropriate entries in their 23 records as they work on Litton's behalf? 24 A. I don't know if they've been provided a 25 document such as this. I can't confirm that.</p>	<p>1 A. Yes, that may occur. 2 Q. Okay. What charges would they be able to 3 cause to be incurred to the debtor or the borrower 4 through their activities? 5 MS. BEARDSLEY: Object to the form. 6 A. The filing of a proof of claim, a motion for 7 relief from stay. 8 Q. (BY MR. WOOTEN) Okay. Do they require 9 Litton's approval for either of those actions prior to 10 undertaking them? 11 A. No. 12 Q. Okay. Are there any entries in Plaintiff's 13 Exhibit 1 where a layperson could determine that Litton 14 made any separate accounting for trustee payments during 15 a bankruptcy proceeding? 16 A. No. 17 Q. Is it fair to say that in Plaintiff's 18 Exhibit 1, it would simply be money received in the form 19 of a payment? 20 MS. BEARDSLEY: Payment from the 21 borrower? Is that -- 22 Q. (BY MR. WOOTEN) I'm talking about what's in 23 Exhibit 1. 24 A. Exhibit 1 is reflective of all payments 25 received.</p>



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<p>1 Q. Okay. So when a trustee makes a payment, 2 there's nothing in Exhibit 1 that you could look at to 3 determine that the money came from a bankruptcy trustee, 4 is there? 5 A. No. 6 Q. I do notice in the next to last column to the 7 right of Plaintiff's Exhibit 1, there is a heading that 8 says Suspense slash CD. What is the purpose of that 9 column, if you know? 10 A. That column would identify any funds that were 11 placed in and removed from a suspense account. 12 Q. What is the -- the suspense, I get, but the 13 slash CD, what is the meaning of that? Do you know? 14 A. I do not know. 15 Q. Do you know if the mortgage loan instrument or 16 promissory note authorized the creation or use of a 17 suspense account for a borrower's account? 18 A. I don't know. 19 Q. Is it your testimony that both amounts placed 20 in suspense as well as amounts withdrawn from suspense 21 are reflected in that column? 22 A. Yes. 23 Q. And by referring to the transaction code, 24 which if you look at page 3 of the exhibit on Loan 25 Transaction No. 269, it has a date of July 31st, 2008.</p>	<p>1 Q. Okay. Who do you think would be the person 2 most likely to know that? 3 A. Probably Lynn Lindsey. 4 Q. Lynn Lindsey? 5 A. Uh-huh. 6 Q. Okay. And with respect to the purpose of a 7 forbearance adjustment, there is nothing in this entry 8 that would indicate why that was treated as a 9 forbearance adjustment, is there? 10 A. Not that particular entry. 11 Q. So it would require more information than is 12 available to the layperson from reviewing this document 13 to try to interpret why that dollar amount went into 14 suspense, correct? 15 A. Yeah, that may be possible. 16 Q. What is the purpose of an escrow account? 17 A. The purpose of the escrow account is to allow 18 the servicers to be able to collect funds from the 19 customer in order to pay their taxes and/or insurance 20 and to make disbursements on their behalf. 21 Q. And it's your understanding that escrow 22 accounts are regulated heavily by federal law including 23 the Real Estate Settlement Procedures Act? 24 A. Yes. 25 Q. And you are aware that those laws impose</p>
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<p>1 Do you see that? 2 A. Yes. 3 Q. And then it has a code of 25 and 24, right? 4 A. Yes. 5 Q. And we could refer back to Plaintiff's 6 Exhibit 3 for a definition of 25 and 24, right? 7 A. Yes. 8 Q. And it says that 25 and 24 is a Forbearance 9 Suspense Cash Credit Adjustment; is that correct? 10 A. Yes. 11 Q. And it says it increases the forbearance 12 suspense balance, right? 13 A. Yes. 14 Q. So looking at that transaction, it would 15 indicate that the suspense balance increased by 304.01 16 on 7/31 of 2008, correct? 17 A. Yes. 18 Q. There is another entry out by the dollar 19 amount that is number 24. Do you know what the 24 20 signifies? 21 A. I do not. 22 Q. Do you think it's possible that that is 23 related to the slash CD entry and that that is some 24 other type of additional coding? 25 A. I really have no idea.</p>	<p>1 strict liabilities and obligations with respect to what 2 items are truly escrow items versus what items are other 3 items that should not be included in escrow? 4 A. Yes. 5 Q. I'm going to detour just a second, because we 6 have to identify some of these documents. 7 (Plaintiff's Exhibit No. 4 8 marked for identification.) 9 Q. (BY MR. WOOTEN) You've brought this document 10 I marked Plaintiff's Exhibit 4, and it says it's an 11 amortization schedule. Can you explain what that 12 document is. 13 A. Yes. The amortization schedule will reflect 14 how each contractual payment will be applied on an 15 amortized basis. 16 Q. And that's assuming that those payments are 17 applied according to the promissory note and the 18 mortgage, right? 19 A. Correct. 20 Q. How does your company determine the priority 21 of payments of items when a payment is received from a 22 borrower? 23 A. Meaning -- 24 Q. If Ms. Hudson makes her normal direct mortgage 25 payment this month, how does your company determine what</p>

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<p>1 amounts are applied to what categories?</p> <p>2 MS. BEARDSLEY: Assuming she's not in --</p> <p>3 when you say this month --</p> <p>4 Q. (BY MR. WOOTEN) Well, let's just say</p> <p>5 hypothetically --</p> <p>6 MS. BEARDSLEY: Okay.</p> <p>7 Q. (BY MR. WOOTEN) -- when a mortgage borrower</p> <p>8 makes a normal monthly payment --</p> <p>9 A. Uh-huh.</p> <p>10 Q. -- how does Litton determine how those moneys</p> <p>11 are applied as they are received, what items they're</p> <p>12 credited to: escrow, fees, interest, principal? How do</p> <p>13 you make that determination?</p> <p>14 A. Well, actually the system makes that</p> <p>15 determination.</p> <p>16 Q. The computer system?</p> <p>17 A. Yes.</p> <p>18 Q. And that computer system is programmed to make</p> <p>19 that determination based on how it's programmed?</p> <p>20 A. Based on the information for that particular</p> <p>21 loan, yes.</p> <p>22 Q. Which is a function of, at some point and at</p> <p>23 some level, operator input from some human being at</p> <p>24 Litton, right?</p> <p>25 A. It could be a manual process.</p>	<p>1 A. I can't recall.</p> <p>2 Q. Do you agree that in a typical mortgage loan</p> <p>3 transaction that there are two parts: There is the</p> <p>4 promissory note and the security instrument, which we</p> <p>5 refer to as the mortgage or deed of trust.</p> <p>6 A. Uh-huh. Yes.</p> <p>7 Q. And you would agree that typically those two</p> <p>8 items are read in conjunction as part of that loan</p> <p>9 agreement, correct?</p> <p>10 A. Yes.</p> <p>11 Q. So in other words, when you sign a note and</p> <p>12 mortgage, those two documents are read as one merged</p> <p>13 contract.</p> <p>14 MS. BEARDSLEY: Object to the form.</p> <p>15 Q. (BY MR. WOOTEN) If you know what that means.</p> <p>16 A. Yes.</p> <p>17 Q. So wherever in that contract it defines how</p> <p>18 payments will be applied, that is the law of that loan</p> <p>19 with respect to that contract, right?</p> <p>20 A. Yes.</p> <p>21 Q. And you would agree that Litton is required to</p> <p>22 honor that agreement with respect to the application of</p> <p>23 payments, right?</p> <p>24 A. Yes.</p> <p>25 Q. Another document that y'all brought this</p>
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<p>1 Q. I'm not asking if each individual loan payment</p> <p>2 is manually entered and applied.</p> <p>3 A. Uh-huh.</p> <p>4 Q. I'm saying that when Litton sets up a pool of</p> <p>5 loans --</p> <p>6 A. Uh-huh.</p> <p>7 Q. -- and they say these loans go with this trust</p> <p>8 for this investor --</p> <p>9 A. Uh-huh.</p> <p>10 Q. -- I'm assuming somewhere along in there,</p> <p>11 there are rules about how the normal payments are</p> <p>12 applied to that borrower's account for that group of</p> <p>13 loans, right?</p> <p>14 A. Not to my knowledge. The loans are set up</p> <p>15 according to the terms of the note, and so the payments</p> <p>16 are applied in accordance thereof. It has nothing to do</p> <p>17 with a pool, per se. It's based on whatever information</p> <p>18 is in the note.</p> <p>19 Q. Okay. Have you reviewed the note in this</p> <p>20 file?</p> <p>21 A. I have.</p> <p>22 Q. Is there a portion of the note in this case</p> <p>23 that addresses the application of payments?</p> <p>24 A. I believe it does.</p> <p>25 Q. What about the mortgage?</p>	<p>1 morning is -- I'm marking as Plaintiff's Exhibit 5.</p> <p>2 (Plaintiff's Exhibit No. 5</p> <p>3 marked for identification.)</p> <p>4 Q. (BY MR. WOOTEN) It says that it is a</p> <p>5 recapitulation of the escrow account activity for my</p> <p>6 client's loan.</p> <p>7 MS. BEARDSLEY: Nick, I have those</p> <p>8 clipped together.</p> <p>9 MR. WOOTEN: Sure.</p> <p>10 MS. BEARDSLEY: It doesn't mean that</p> <p>11 they're a collective document, so --</p> <p>12 Q. (BY MR. WOOTEN) Let's do this. I'm going to</p> <p>13 let you -- since Robin made that representation, I'm</p> <p>14 going to unclip these and ask you to look through them</p> <p>15 and you identify what documents go together and I'll</p> <p>16 mark them accordingly.</p> <p>17 The first one I marked as No. 5, and it's</p> <p>18 headed as an escrow account.</p> <p>19 MR. WOOTEN: Is that two copies of that?</p> <p>20 MS. BEARDSLEY: Yeah. Here you go.</p> <p>21 MR. WOOTEN: Thanks.</p> <p>22 Q. (BY MR. WOOTEN) And is No. 5 a recapitulation</p> <p>23 of the activity in the escrow account for Ms. Hudson?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And should that be a stand-alone</p>

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<p>1 document? Are there other documents there that belong 2 with that document? 3 A. No. 4 Q. Okay. All right. What is the next document 5 in that grouping that is -- or the next grouping of 6 documents that belong together? 7 A. These are screen prints from the LSAMS 8 software of various screens for the account. 9 Q. All right. Are each of those individual 10 screen prints? 11 A. Yes. 12 Q. What is the first one that you're holding? 13 A. The first is an escrow inquiry. 14 Q. All right. And is that one document alone? 15 A. It's two. 16 Q. So the first two pages are the escrow inquiry? 17 A. Yes. 18 Q. All right. And tell me what information I 19 should be able to glean from this document. I'm going 20 to mark this as 6, and you're looking like you might 21 want to look back at it. I understand there's a pretty 22 good amount on there. 23 (Plaintiff's Exhibit No. 6 24 marked for identification.) 25 A. This document tells us what escrow lines have</p>	<p>1 company places or is forced to place insurance on a 2 borrower's loan? 3 A. Yes. 4 Q. And would she be able to tell me whether that 5 is in any way related to whether or not there is a 6 present default on the borrower's loan? 7 A. Say that again. 8 Q. Would she also be able to tell me whether or 9 not the choice to place forced placed insurance is based 10 upon in any fashion whether or not the borrower is in 11 default? 12 A. She may be able to provide that information. 13 Q. You would not have that information, would 14 you? 15 A. No. 16 Q. Okay. What is the next document in that 17 grouping? 18 A. On the second page of Exhibit 6? 19 Q. Both of those go together, right? 20 A. Yes. 21 Q. Was there anything else in that document that 22 I should be able to learn from looking at it other than 23 what you have already told me about? 24 A. Well, the purpose of providing the document 25 was to reflect the insurance information as provided by</p>
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<p>1 been created and the amount that we should be collecting 2 for homeowner's insurance and/or taxes. 3 Q. (BY MR. WOOTEN) All right. And all that 4 information is available from that form? 5 A. Yes. 6 Q. On the second page of that document, I noticed 7 as I was stapling that there was an entry that says 8 Comment/Legal Description and it says MaxMillion. What 9 is that? 10 A. That is a software that I think the insurance 11 department uses. 12 Q. Okay. Are you aware if that is a software 13 program provided by LPS to your company? 14 A. I don't know. 15 Q. Okay. What information would you be able to 16 gather from MaxMillion? 17 A. I have no idea. 18 Q. Who would know? 19 A. Jennifer Shannon. 20 Q. Who is Jennifer Shannon? 21 A. She's the -- she's over the insurance group. 22 Q. Is that another department within servicing? 23 A. Yes. 24 Q. Would she be able to tell me whether or not 25 there are certain rules with respect to when your</p>	<p>1 the borrower. 2 Q. Okay. And what's the next document in that 3 grouping? 4 A. It's the change filed inquiry. 5 Q. And what does that mean? 6 A. It -- 7 Q. Go ahead. I'm sorry. 8 A. This is where if there is any changes made to, 9 say, the payment, P and I payment amount, interest rate, 10 escrow payment, things of that nature, it would be 11 identified on this screen. 12 Q. Okay. Is that also something that's printed 13 from your software? 14 A. Yes. 15 Q. Okay. Let me mark that as Exhibit 7 just so 16 we have identification of what that is. 17 (Plaintiff's Exhibit No. 7 18 marked for identification.) 19 Q. (BY MR. WOOTEN) What is the next document, 20 please, ma'am? 21 A. It's the loan payment inquiry. 22 Q. And what is that information -- what's that 23 supposed to provide us? 24 A. It provides a snapshot of the loan, such as 25 the current payment amount, the principal balance. If</p>

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<p>1 there is any amounts in suspense, it will identify the 2 amount in suspense as well as any charges, such as late 3 charges and insufficient fund charges, that may have 4 been assessed to the loan. 5 Q. Okay. Let me took a look at that form. 6 A. (Witness hands document to counsel.) 7 Q. This form I'm going to mark as Exhibit 8. 8 (Plaintiff's Exhibit No. 8 9 marked for identification.) 10 Q. (BY MR. WOOTEN) And it indicates that -- I 11 believe that even though the page seems to have sort of 12 blended together, it looks like you ran that off 13 yesterday? 14 A. Yes. 15 Q. And it indicates that there's interest due of 16 \$8,631.64, correct? 17 A. Yes. 18 Q. What date is the interest figured from on the 19 borrower's loan based on this document? 20 A. Can I see the document? 21 Q. Sure. (Counsel hands document to witness.) 22 MS. BEARDSLEY: And you may already know 23 this. I know you mentioned it just a minute ago. It's 24 skewed because of the way the screen prints. 25 MR. WOOTEN: It's skewed, yeah.</p>	<p>1 tracking the contractual due date based upon the way 2 that your system accounts for these loans through its 3 programming? 4 A. That could be one reason why, yes. 5 Q. Are you familiar at all with the industry 6 standard respecting the application of late charges to 7 borrowers' accounts as a collection tool? 8 A. Am I familiar with what? 9 Q. The mortgage servicing industry standards for 10 recommended procedures for the assessment of late 11 charges to a borrower's account as a collection tool. 12 MS. BEARDSLEY: Object to the form. 13 A. No. 14 Q. (BY MR. WOOTEN) Is it fair to say that any 15 money collected by your company as a fee is treated as 16 fee income by your company? 17 A. No, I don't agree with that statement. 18 Q. With respect to late fees, is it fair to say 19 that any late fees collected are treated as fee income 20 by your company? 21 MS. BEARDSLEY: Object to the form. 22 A. Yes. 23 (Plaintiff's Exhibit No. 9 24 marked for identification.) 25 Q. (BY MR. WOOTEN) I'm going to mark this</p>
Page 78	Page 80
<p>1 A. May 1, 2007. 2 Q. (BY MR. WOOTEN) Would that be what your 3 company currently recognizes as the contractual due 4 date? 5 A. No. 6 Q. What is the contractual due date according to 7 your company today? 8 A. June 1, 2007. 9 Q. Is the difference between those two because 10 interest is figured 30 days behind? 11 A. Yes. 12 Q. Is it fair to say that when a loan is in 13 default, your company will pay fees due on the loan from 14 regular payments which are received by the borrower? 15 A. No. 16 Q. For the purpose of assessing late fees, is it 17 fair to say that a late fee will be assessed to the 18 borrower's loan based upon the contractual due date? 19 MS. BEARDSLEY: Object to the form. 20 A. Yes. That may occur. 21 Q. (BY MR. WOOTEN) Okay. Does that occur in 22 this case? 23 A. That appears to be correct. 24 Q. And is it fair to say that the reason a late 25 fee is being charged monthly is because your system is</p>	<p>1 particular document as Exhibit 9 and ask you if you can 2 take a look at it and ask you whether that document 3 should stand alone or whether it goes with some of the 4 other documents in that grouping that you brought today? 5 A. It goes with additional documents. 6 Q. Okay. Would that be the stack of documents 7 that it was with, before I asked you to provide it to 8 me, dealing with where your company paid various vendors 9 for services which were performed? 10 A. Yes. 11 Q. So if you will, I'll hand this clip to you and 12 ask you to clip together all of the documents that 13 belong with the document I've marked as Exhibit 9. 14 A. (Witness complies.) 15 MS. BEARDSLEY: Just for the record, this 16 spreadsheet has a listing of what's attached, and then 17 we actually separated the ones that I have to redact so 18 that you can tell which ones have been produced and 19 which ones -- 20 MR. WOOTEN: All right. So the top of 21 the spreadsheet, what you're saying, Robin, is the ones 22 that are attached -- 23 MS. BEARDSLEY: Uh-huh, attached. 24 MR. WOOTEN: -- and the ones below you're 25 saying need redaction and you're going to get them to me</p>

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<p>1 after they're redacted.</p> <p>2 MS. BEARDSLEY: Yes, uh-huh. Yes.</p> <p>3 Q. (BY MR. WOOTEN) And it's fair to say what</p> <p>4 those documents are purported to represent are payments</p> <p>5 to vendors for services provided with respect to my</p> <p>6 client's loan?</p> <p>7 A. Yes.</p> <p>8 Q. And the actual check amounts are much</p> <p>9 different than the charges because you're paying the</p> <p>10 vendor for what they did for you on a billing cycle</p> <p>11 versus an individual check for my client, right?</p> <p>12 A. Correct.</p> <p>13 Q. With respect to the vendors identified in</p> <p>14 Exhibit 9, do you have contractual arrangements with any</p> <p>15 of those vendors?</p> <p>16 A. That is likely.</p> <p>17 Q. Okay. Who in those vendors would you think it</p> <p>18 is likely you have a contractual relationship with?</p> <p>19 A. It is possible that there's a contractual</p> <p>20 relationship with all of them.</p> <p>21 Q. And would that contractual arrangement set</p> <p>22 forth what those vendors agreed to provide those</p> <p>23 services for, the price that they would be paid for</p> <p>24 providing those services?</p> <p>25 A. I don't know if it provides a price.</p>	<p>1 MS. BEARDSLEY: Object to the form.</p> <p>2 A. I don't know what their specific requirements</p> <p>3 are.</p> <p>4 Q. (BY MR. WOOTEN) Does that sound about right</p> <p>5 based upon your training and experience?</p> <p>6 MS. BEARDSLEY: Object to the form.</p> <p>7 A. Yeah, that could be -- that could happen, yes.</p> <p>8 Q. (BY MR. WOOTEN) After the initial broker</p> <p>9 price opinion is completed, what triggers or causes any</p> <p>10 further broker price opinions to be conducted?</p> <p>11 A. In my experience, it may depend on the age of</p> <p>12 the previous valuation and the status of the loan in the</p> <p>13 delinquency, or it may not have anything to do with</p> <p>14 either of those, per se. It could be requested, say,</p> <p>15 for instance, if the borrower wanted to do a loan</p> <p>16 modification or a certain service like that. Then an</p> <p>17 updated valuation would be required depending on the age</p> <p>18 of the previous.</p> <p>19 Q. With respect to the vendors that are</p> <p>20 identified on Plaintiff's Exhibit 9, are any of those</p> <p>21 vendors subsidiaries of your company?</p> <p>22 A. No.</p> <p>23 Q. Are any of those vendors owned by your</p> <p>24 company?</p> <p>25 A. No.</p>
Page 82	Page 84
<p>1 Q. Is it a -- what is your understanding</p> <p>2 involving that agreement then?</p> <p>3 A. It's just, to my knowledge, to spell out the</p> <p>4 service that they are to provide us, giving them the</p> <p>5 authorization to provide certain services upon request.</p> <p>6 Q. Okay. And those services identified in those</p> <p>7 documents deal with broker price opinions and property</p> <p>8 inspections.</p> <p>9 A. Correct.</p> <p>10 Q. Are the provision of either of those services</p> <p>11 related to the date of delinquency under the contract?</p> <p>12 A. That is possible.</p> <p>13 Q. Once that trigger is reached with the date of</p> <p>14 delinquency, is there an additional trigger that</p> <p>15 requires the same service to be performed again?</p> <p>16 A. Say that again.</p> <p>17 Q. For instance, with broker price opinions --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- you typically seek to perform a broker</p> <p>20 price opinion when a loan is contractually delinquent</p> <p>21 for about 90 days; is that right?</p> <p>22 A. That could be a requirement.</p> <p>23 Q. Would that be typically about what is</p> <p>24 recommended by entities such as Fannie Mae and</p> <p>25 Freddie Mac?</p>	<p>1 Q. Does any owner or subsidiary of your company</p> <p>2 own any interest in any of those vendors?</p> <p>3 A. No, not to my knowledge.</p> <p>4 Q. Did you make any inquiry as to whether or not</p> <p>5 that is the case, or is that just based upon your</p> <p>6 personal knowledge?</p> <p>7 A. I did not make an inquiry based for this</p> <p>8 particular case, but I have inquired in the past.</p> <p>9 Q. Okay. And your inquiry would have consisted</p> <p>10 of asking a supervisor or an officer for that</p> <p>11 information?</p> <p>12 A. Yes.</p> <p>13 Q. And were you just simply verbally told that</p> <p>14 that was not the case or did someone provide you with</p> <p>15 documentation or did you do anything other than that to</p> <p>16 investigate it?</p> <p>17 A. No, I believe I was just told.</p> <p>18 Q. Okay. Are you aware as to whether or not the</p> <p>19 vendors who provide these services pay any portion of</p> <p>20 the moneys paid to them back to Litton as part of the</p> <p>21 agreement to provide these services?</p> <p>22 A. No.</p> <p>23 Q. Have you made inquiry as to whether or not</p> <p>24 that might be the case?</p> <p>25 A. Yes, I believe I have in the past.</p>

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<p>1 Q. Have you made any inquiry specifically to the</p> <p>2 vendors identified on this loan?</p> <p>3 A. Yes, in the past.</p> <p>4 Q. Were any of those vendors recommended or is</p> <p>5 your company steered to use any of those vendors by</p> <p>6 either Promise Solutions or LPS Default?</p> <p>7 A. No.</p> <p>8 Q. Do either Promise Solutions or LPS Default</p> <p>9 have the right to direct that these vendors provide</p> <p>10 these services?</p> <p>11 A. No. If required, the vendor has to make a</p> <p>12 request upon Litton.</p> <p>13 Q. And Litton then authorizes the request?</p> <p>14 A. If it's necessary, yes.</p> <p>15 Q. With respect to a broker price opinion, is it</p> <p>16 fair to say that the broker price opinion is typically</p> <p>17 an item that is requested by the investor or the owner</p> <p>18 of the loan?</p> <p>19 A. Yes.</p> <p>20 Q. Is it also fair to say that the broker price</p> <p>21 opinion is an item that is contained in a separate</p> <p>22 contract between the investor and the owner of the loan</p> <p>23 and Litton and is commonly referred to as a servicing</p> <p>24 agreement?</p> <p>25 MS. BEARDSLEY: Object to the form.</p>	<p>1 and the borrower to service the borrower's loan, is it?</p> <p>2 A. Is it required? Probably not.</p> <p>3 Q. So BPO benefits the investor and the owner of</p> <p>4 the mortgage, right?</p> <p>5 A. And the borrower.</p> <p>6 Q. Well, to the extent that the BPO is imposed as</p> <p>7 a consequence of a delinquency, the purpose of that is</p> <p>8 because the investor requires that a property be valued</p> <p>9 because there is a delinquency.</p> <p>10 A. Yes.</p> <p>11 Q. And again, that is because of the agreement</p> <p>12 between the investor and Litton.</p> <p>13 A. Yes.</p> <p>14 Q. Do you know if the amount charged by the</p> <p>15 vendor is the actual cost of the BPO or if that is in</p> <p>16 any way marked up or inflated?</p> <p>17 A. I don't know what the vendor's true cost is.</p> <p>18 Q. What about the cost of the drive-by</p> <p>19 inspection?</p> <p>20 A. I don't know what the vendor's true cost is.</p> <p>21 Q. Do you know if there's any portion of the</p> <p>22 mortgage instrument where the borrower agrees for the</p> <p>23 investor or the servicer to make a profit off of fees</p> <p>24 related to default?</p> <p>25 A. No.</p>
Page 86	Page 88
<p>1 A. I'm not sure if I understand what you said.</p> <p>2 Q. (BY MR. WOOTEN) Okay. Let me try to</p> <p>3 rephrase.</p> <p>4 A. Okay.</p> <p>5 Q. Is it fair to say that there is a separate</p> <p>6 contract between the owner or investor of the loan and</p> <p>7 Litton that places the obligation upon Litton to secure</p> <p>8 a broker price opinion that is independent of the</p> <p>9 promissory note and the mortgage?</p> <p>10 MS. BEARDSLEY: Object to the form.</p> <p>11 A. I don't know.</p> <p>12 Q. (BY MR. WOOTEN) In other words, what I'm</p> <p>13 asking you, Ms. Mosley, is: The party who is interested</p> <p>14 in having the broker price opinion is typically the</p> <p>15 owner or investor in that mortgage loan, right?</p> <p>16 A. Yes.</p> <p>17 Q. And Litton provides that service based on</p> <p>18 their desire to have it done?</p> <p>19 A. Yes.</p> <p>20 Q. And that is based on a contract between Litton</p> <p>21 and that owner or investor?</p> <p>22 A. I would say I don't -- I don't know if there</p> <p>23 is a contract that exists that specifically states that</p> <p>24 we are to obtain the BPOs on their behalf.</p> <p>25 Q. But that is not necessary as between Litton</p>	<p>1 Q. Is it your understanding that most of the</p> <p>2 mortgage instruments say that the borrower agrees to pay</p> <p>3 the reasonable and necessary cost of providing a</p> <p>4 service?</p> <p>5 A. Yeah, there is verbiage similar to that.</p> <p>6 Q. And that's pretty standard in the uniform</p> <p>7 mortgage instruments.</p> <p>8 A. Yes.</p> <p>9 Q. So if Litton or the investor is profiting off</p> <p>10 of the provision of these services, the borrower has not</p> <p>11 made any agreement to pay that profit to Litton or to</p> <p>12 the investor, have they?</p> <p>13 A. Well, I disagree that these are profits to</p> <p>14 Litton or the investor.</p> <p>15 Q. To the extent that they're treated as such,</p> <p>16 the borrow hasn't agreed to pay it, have they?</p> <p>17 MS. BEARDSLEY: Object to the form.</p> <p>18 A. The borrower agreed to pay reasonable fees,</p> <p>19 yes.</p> <p>20 Q. (BY MR. WOOTEN) And you would agree that</p> <p>21 marking up a fee to more than what it cost is more than</p> <p>22 what it would be reasonable and necessary for the</p> <p>23 servicer or investor to expend, right?</p> <p>24 A. It hasn't been established that the cost of</p> <p>25 the service has been marked up. I only know that Litton</p>

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23 (Pages 89 to 92)

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<p>1 pays the invoice as billed on behalf of the investor.</p> <p>2 Q. And actually, there is a provision in the</p> <p>3 agreements between the investor and Litton whereby</p> <p>4 Litton can be reimbursed for the cost of that service</p> <p>5 that it provides to the investor, right?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what the amount of that</p> <p>8 reimbursement is?</p> <p>9 A. No.</p> <p>10 Q. Do you know if it's a hundred percent?</p> <p>11 A. Typically, it is, if it's a service that is --</p> <p>12 if it's an expectation of the investor that that is</p> <p>13 something that -- a service that we obtain per their</p> <p>14 request, then yes.</p> <p>15 Q. So if they ask you to get it, they agree to</p> <p>16 pay for it, right?</p> <p>17 A. That or if it is a fee that has been charged</p> <p>18 or obtained with the normal course of servicing.</p> <p>19 Q. Okay. But with respect to a fee for a charge</p> <p>20 that the investor specifically requested be performed</p> <p>21 and they specifically agreed to pay, Litton would be</p> <p>22 reimbursed 100 percent for that charge, right?</p> <p>23 MS. BEARDSLEY: Object to the form.</p> <p>24 A. Yes, to my knowledge.</p> <p>25 Q. (BY MR. WOOTEN) Is there any entry on any of</p>	<p>1 reflection of the payments received on the account.</p> <p>2 Q. Take a minute and look at Exhibit 1, if you</p> <p>3 want to. I think you might be confused, and I don't</p> <p>4 want to confuse you. You can flip through it. Do</p> <p>5 whatever you need to do.</p> <p>6 A. Uh-huh.</p> <p>7 Q. Is Exhibit 1 a complete payment history or a</p> <p>8 complete history of all of the transactions for Lorraine</p> <p>9 Hudson's account since Litton began to service this</p> <p>10 loan?</p> <p>11 A. Well, it's all of a certain type of</p> <p>12 transactions, but in regards to the advancement of</p> <p>13 inspection fees and BPO fees, that does not appear on</p> <p>14 this particular ledger.</p> <p>15 Q. Are you saying that the amounts charged to</p> <p>16 Ms. Hudson's account for certain types of fees are not</p> <p>17 included on that Exhibit 1?</p> <p>18 A. Correct.</p> <p>19 Q. Is there another document that you've produced</p> <p>20 in this case which would indicate every fee that was</p> <p>21 charged to her loan and whether or not any portion of</p> <p>22 that fee was ever refunded?</p> <p>23 A. No, not to my knowledge.</p> <p>24 Q. You would agree that there is a portion of</p> <p>25 your servicing software which would contain that</p>
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<p>1 Ms. Hudson's account records which indicate that any of</p> <p>2 the charges were taken off of her account when they were</p> <p>3 reimbursed by the investor?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. And if they had been, there would be an entry</p> <p>6 in Exhibit 1 that you brought with you today, right?</p> <p>7 A. No.</p> <p>8 Q. If a charge that had previously been assessed</p> <p>9 to Ms. Hudson's account which the servicer had been</p> <p>10 reimbursed for incurring --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- such that the servicer had been paid in</p> <p>13 full --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- is it your testimony that her records would</p> <p>16 not indicate if that charge had been taken off of her</p> <p>17 account?</p> <p>18 MS. BEARDSLEY: Object to the form.</p> <p>19 A. My testimony is that will not be reflected in</p> <p>20 Exhibit 1.</p> <p>21 Q. (BY MR. WOOTEN) Which is the payment history.</p> <p>22 A. Which is the payment history.</p> <p>23 Q. And that is allegedly the history of every</p> <p>24 transaction on her account since Litton began servicing.</p> <p>25 A. I think I previously testified that it was a</p>	<p>1 information?</p> <p>2 A. Yes.</p> <p>3 Q. And you would agree that in your position, you</p> <p>4 would have ready access to it?</p> <p>5 A. I don't know if I have ready access to that.</p> <p>6 Q. You would be able to obtain that information</p> <p>7 as part of this lawsuit, wouldn't you?</p> <p>8 A. Yes, I would.</p> <p>9 Q. And it would be a function of going to the</p> <p>10 appropriate area of the software and identifying those</p> <p>11 entries or that field and basically pressing print,</p> <p>12 right?</p> <p>13 A. If I have access to it, yes.</p> <p>14 Q. Would you agree that within your department,</p> <p>15 whether it's your manager or an officer in charge of</p> <p>16 your department, someone has the ability to sit down at</p> <p>17 a computer terminal and print that information off,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And it would tell us if Litton had ever</p> <p>21 refunded any portion of anything that was charged as a</p> <p>22 fee or an advance to Ms. Hudson's loan?</p> <p>23 A. I don't know exactly what information would be</p> <p>24 on the document, but it's possible to be able to obtain</p> <p>25 such information.</p>

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24 (Pages 93 to 96)

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<p>1 Q. You would agree that if you had assessed a fee 2 to Ms. Hudson's account for a charge which the investor 3 requested for service that they asked to be performed, 4 that even if that entry was made to Ms. Hudson's 5 account, if that charge was ultimately paid by the 6 investor, that Ms. Hudson should have been entitled to a 7 removal from her account of that charge. Is that fair? 8 A. I don't know how that works, so I don't know 9 if that's a fair statement or not. 10 Q. Okay. You would agree that it would not be 11 fair for Litton to be paid both by the investor and the 12 borrower for the same service? 13 A. Again, I don't know how that works. 14 Q. It's more of a general question. 15 Litton doesn't expect to be paid twice 16 for the same fee, does it? 17 A. I surely hope not. 18 Q. So if a fee is paid by someone other than the 19 borrower, then is it a fair statement that that fee 20 should be removed from the borrower's account? 21 A. Yes. 22 Q. And so if it is not and Litton collects that 23 fee, that is profit, money paid to Litton, owed to no 24 one else, which Litton can put in its bank and spend, 25 right?</p>	<p>1 Q. And some of those BPOs are provided pursuant 2 to an agreement between the investor and Litton. It has 3 nothing to do with the borrower. 4 A. Yes. 5 Q. And when Litton is paid for those fees, the 6 borrower should not have to pay for that fee again. 7 MS. BEARDSLEY: Object to the form. 8 A. Again, I don't know how that process works, 9 but no, the borrower should not be billed twice and 10 collected on multiple times, no. 11 Q. (BY MR. WOOTEN) And if there is an agreement 12 to provide the service to the investor for less than the 13 amount that's billed to the borrower, it would also not 14 be proper to ask the borrower to pay more money than the 15 investor agreed to pay for that service. 16 MS. BEARDSLEY: Object to the form. 17 THE WITNESS: Was that a question? 18 MS. BEARDSLEY: I think so. I don't know 19 if she understood. 20 A. It sounded like a statement. I don't know if 21 you were asking me a question. 22 Q. (BY MR. WOOTEN) I'm sorry. Let me rephrase 23 it. 24 It would not be proper for Litton to 25 charge a borrower more for a fee than Litton or its</p>
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<p>1 A. Yeah. 2 Q. And is it also fair to say that it is common 3 in Litton's servicing practices to have arrangements to 4 provide certain services for investors which they pay 5 Litton to perform? 6 MS. BEARDSLEY: Object to the form. 7 A. I don't know if I understand. 8 Q. (BY MR. WOOTEN) Well, specifically with 9 respect to a broker price opinion -- 10 A. Okay. 11 Q. -- when the investor requests a valuation of 12 the property, that is a service Litton's agreed to 13 perform -- 14 A. Uh-huh. 15 Q. -- for a fee, and the investor has agreed to 16 pay, right? 17 A. Right. 18 Q. And it is common in Litton's servicing to 19 provide services such as a BPO for an investor for a 20 fee? 21 A. I didn't hear that last part. I'm sorry. 22 Q. I'm sorry. 23 It's common for Litton to provide BPOs 24 for investors, isn't it? 25 A. Yes.</p>	<p>1 vendor had agreed to provide that service to the 2 investor, correct? 3 A. Correct. 4 Q. Other than the documents that we ended up with 5 by marking Exhibit 9, are there any other documents that 6 you brought today to produce? 7 A. No. 8 MR. WOOTEN: I'm going to try to make a 9 little headway about identifying some of these other 10 documents before we try to break for lunch. 11 MS. BEARDSLEY: Okay. 12 Q. (BY MR. WOOTEN) I'm going to hand you these 13 documents, and they are marked Litton slash Hudson 173 14 through 178. And I'll represent to you that this was 15 presented to me as a copy of the promissory note along 16 with any endorsements or attachments thereto. I'll ask 17 you to flip through that. 18 Do you recognize that as apparently a 19 copy of the promissory note executed by my client? 20 A. Yes. 21 Q. And Bates stamped with the Bates stamp system 22 that your attorneys used to produce these documents to 23 us? 24 A. Yes. 25 Q. And if we requested that you produce the</p>



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<p>1 promissory note in your files along with all of its 2 endorsements and attachments thereto, you have no reason 3 to believe that you produced less than the entire set of 4 documents responsive to that request, do you? 5 A. No. 6 Q. Are you aware of whether or not there are any 7 other documents anywhere related to Ms. Hudson's file 8 with respect to her promissory note other than the 9 documents produced that I've shown you there? 10 A. Like, such as -- 11 Q. Any other allonges to the note? 12 A. No, not to my knowledge. 13 Q. Any other endorsements to the note? 14 A. Not to my knowledge. 15 Q. Okay. Will you paper clip those back 16 together, please. 17 A. Uh-huh. (Witness complies.) 18 Q. Is it fair to say that this is a complete copy 19 of all the documents in Litton's possession referencing 20 all the changes in the ownership of this note prior to 21 the time that Litton began to service this note or this 22 loan on behalf of the investor? 23 A. No, I can't say it's all the documents. 24 Q. With respect to the note. 25 A. Yes.</p>	<p>1 you. 2 Does that appear to be assignments of the 3 mortgage dealing with my client's mortgage? 4 A. Yes. 5 Q. Okay. Let me mark that cumulatively as 6 Exhibit 11. 7 (Plaintiff's Exhibit No. 11 8 marked for identification.) 9 Q. (BY MR. WOOTEN) I'll mark as Exhibit 12 a 10 document that was filed in Bankruptcy Court with the 11 Middle District of Alabama. 12 Before I show you this document, I wanted 13 to ask you, is Nicole Kennebeck still an employee of 14 Litton Loan Servicing? 15 A. No. 16 Q. Okay. Do you know approximately when her 17 employment ended? 18 A. It was this year. 19 Q. Okay. What about Bertha Castillo, 20 C-A-S-T-I-L-L-O? 21 A. Yes. 22 Q. She is still employed? 23 A. Yes. 24 Q. And what is her job description, please, 25 ma'am?</p>
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<p>1 Q. Okay. We know that there are other documents, 2 but I'm talking about with respect to the promissory 3 note, there are no other endorsements, no other 4 allonges? 5 A. Not to my knowledge. 6 Q. And, of course, if you filed a document with 7 the Bankruptcy Court in the Middle District of Alabama, 8 you would have filed a true and correct copy of those 9 documents also, right? 10 A. Yes. 11 Q. I'm going to mark that as Plaintiff's 12 Exhibit 10, and we'll come back to that in a minute. 13 (Plaintiff's Exhibit No. 10 14 marked for identification.) 15 Q. (BY MR. WOOTEN) With respect to our request 16 that you produce to us a complete copy of our client's 17 mortgage along with every assignment of that mortgage, 18 I'm going to show you documents -- I won't clip them 19 together until you review them -- 172, 159, 160, 161, 20 149, 150, 151, 152, 153, 154, 142, 144, 145, 146, 155, 21 156, 157, 158, 147, and 148. And I'll represent to you 22 that each of those documents appears to be an assignment 23 of my client's mortgage. 24 I'll ask you to review that and see if 25 you recognize those documents to be as represented to</p>	<p>1 A. Lead bankruptcy specialist. 2 Q. Okay. And she is apparently also a Notary 3 Public for the State of Texas? 4 A. Yes. 5 Q. A portion of what she does is notarize 6 affidavits filed in support of motions filed for relief 7 from stay? 8 A. That's correct. 9 Q. What was Nicole Kennebeck's job before her 10 employment ended? 11 A. Vendor relationship manager. 12 Q. She was no longer in the bankruptcy 13 department, right? 14 A. Excuse me? 15 Q. She was no longer working in the bankruptcy 16 department before her termination or employment ended? 17 A. Yes, she was. 18 Q. When you say vendor relationship manager, is 19 that a person who communicates with people like LPS 20 Default and Promise? 21 A. That's correct. 22 Q. Is that also a person that prepares documents 23 or assists in preparing documents for those outsourced 24 vendors? 25 A. She had at one time.</p>

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26 (Pages 101 to 104)

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<p>1 Q. Was she doing that in November of 2007?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know why her employment came to an end?</p> <p>4 A. Relocated.</p> <p>5 Q. Okay. Do you know approximately where she</p> <p>6 relocated to?</p> <p>7 A. The Midwest.</p> <p>8 Q. More specific than that? State, city, area?</p> <p>9 A. Wisconsin, Chicago area, Illinois.</p> <p>10 Q. She was not employed by any of these other</p> <p>11 vendors; she was a Litton employee?</p> <p>12 A. Correct.</p> <p>13 (Plaintiff's Exhibit No. 12</p> <p>14 marked for identification.)</p> <p>15 Q. (BY MR. WOOTEN) I'm going to show you -- and</p> <p>16 I've got a copy for you too, Robin -- what I've marked</p> <p>17 as Exhibit 12, which is the Notice of Filing Affidavit</p> <p>18 in the bankruptcy of my client. The first page</p> <p>19 indicates that you are acting as the servicing agent for</p> <p>20 Deutsche Bank National Trust Company as Trustee for the</p> <p>21 holders of Finance America Mortgage Loan Trust 2003-1;</p> <p>22 is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And this information also indicates that MERS,</p> <p>25 which is Mortgage Electronic Registration Systems, Inc.,</p>	<p>1 A. That's correct.</p> <p>2 Q. With respect to the attachments to this motion</p> <p>3 for relief from stay, there is what appears to be a copy</p> <p>4 of my client's note, which we've just previously marked</p> <p>5 as Plaintiff's Exhibit 10, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And, again, you would have filed a true and</p> <p>8 correct copy of the documents that existed in your loan</p> <p>9 file with the Court on November 6 of 2007, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Are there any allonges to this note with this</p> <p>12 filing?</p> <p>13 A. No.</p> <p>14 Q. And I want to show you Exhibit 10 and ask you</p> <p>15 to flip to the last two pages. There are two allonges</p> <p>16 present on Exhibit 10, are there not?</p> <p>17 A. Yes.</p> <p>18 Q. Is there an allonge to Deutsche Bank National</p> <p>19 Trust Company as Trustee for the holders of Finance</p> <p>20 America Mortgage Loan Trust 2003-1, Asset-Backed</p> <p>21 Certificates, Series 2003-1?</p> <p>22 A. So are you asking me is there an allonge</p> <p>23 attached to a name?</p> <p>24 Q. I'm asking you is there an allonge attached to</p> <p>25 Exhibit 10 which appears to transfer the promissory note</p>
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<p>1 is the nominee. And I'm not able to tell from that</p> <p>2 affidavit if they were the nominee for Deutsche Bank or</p> <p>3 Litton. Do you know?</p> <p>4 A. No.</p> <p>5 Q. Is Litton a MERS member?</p> <p>6 A. I'm -- I don't know.</p> <p>7 Q. What is your understanding of MERS?</p> <p>8 A. My understanding of MERS is that it acts as an</p> <p>9 agent when loans are originated, theoretically so -- to</p> <p>10 track the assignments. They act as an agent when the</p> <p>11 loans are originated, and they will track the ownership</p> <p>12 of the loan through its course as long as the loan is</p> <p>13 registered with MERS.</p> <p>14 Q. Okay.</p> <p>15 A. I think that's right.</p> <p>16 Q. And you would agree with me that MERS is an</p> <p>17 electronic system and that even if a loan is tracked on</p> <p>18 its system, the actual paper documents control who</p> <p>19 actually has the rights to the note and the mortgage,</p> <p>20 right?</p> <p>21 A. Correct.</p> <p>22 Q. So even if a system -- even if someone is</p> <p>23 registered as the owner of a loan on the MERS system, it</p> <p>24 does not mean that the paperwork has been transferred</p> <p>25 such that ownership has actually changed hands, does it?</p>	<p>1 to this particular mortgage loan trust?</p> <p>2 A. You said Exhibit 10?</p> <p>3 Q. Uh-huh.</p> <p>4 A. Yes, there is an allonge there.</p> <p>5 Q. Does it transfer this mortgage note to the</p> <p>6 mortgage loan trust identified in Exhibit 12?</p> <p>7 A. No.</p> <p>8 Q. It is, in fact, a blank endorsement, isn't it?</p> <p>9 A. Yes.</p> <p>10 Q. And it is not a document that is attached or</p> <p>11 affixed to that promissory note, is it?</p> <p>12 A. No.</p> <p>13 Q. In other words, it is a separate sheet of</p> <p>14 paper produced that has no indicia or indication that it</p> <p>15 was ever attached to that promissory note in any manner</p> <p>16 in which it could not be removed, does it?</p> <p>17 A. It doesn't.</p> <p>18 MS. BEARDSLEY: Object to the form. I'm</p> <p>19 sorry. Go ahead.</p> <p>20 MR. WOOTEN: We're going to stop in just</p> <p>21 a couple of minutes and take lunch. I just want to get</p> <p>22 a few more documents identified before we break.</p> <p>23 Q. (BY MR. WOOTEN) With respect to the mortgage,</p> <p>24 which is attached to Exhibit 12 and is the -- begins on</p> <p>25 page 7 of 24 of Exhibit 12, it indicates at the top a</p>

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<p>1 request to return to Global Lending Group in Clearwater, 2 Florida; is that correct? 3 A. Yes. 4 Q. And the lender in that case is Global Lending 5 Group? 6 A. Yes. 7 Q. And if you flip to the end of this filing, the 8 page 18 of 24 is the signature page of my client; is 9 that correct? 10 A. Yes. 11 Q. Page 19 of 24 appears to be a recorded copy of 12 a mortgage loan assignment from Global Lending Group to 13 Finance America; is that correct? Page 19 of 24. 14 A. That appears to be the case. 15 Q. Do you know who actually owns or owned Finance 16 America? 17 A. No, I don't. 18 Q. What is the date indicated on the -- what we 19 commonly refer to as the side strip of that mortgage 20 assignment on page 19, the date and time on the left 21 side of the document? 22 A. The date is not clear to me, but it's 23 October 2003 -- 24 Q. Okay. 25 A. -- at 8:04 a.m.</p>	<p>1 transfer, and convey unto Mortgage Electronic 2 Registration Systems, Inc., ('MERS'), organized and 3 existing under the laws of Delaware, a corporation whose 4 address is P.O. Box" -- hard to make that out; looks 5 like -- "2026, Flint, Michigan," and then there's a ZIP 6 code I'm having a problem figuring out. And it says, "A 7 certain mortgage dated July 1st, '03, made and executed 8 by Lorraine Hudson, a single woman, whose address is 9 6603 24th Avenue, Valley, Alabama 36854-4054, to and in 10 favor of Finance America, LLC, upon the following 11 described property situated in Chambers County, State of 12 Alabama"? 13 A. Oh, I see it now. 14 Q. So is that, in fact, apparently an assignment 15 from Finance America to MERS? 16 A. Yes. 17 Q. And then the next page says that it is page 2 18 of 3, and then the next page says that it is page -- I'm 19 sorry. 20 The previous page said 2 of 4, correct, 21 page 22? 22 A. Yes. 23 Q. The Probate Judge's seal or strip at the 24 bottom of the page says page 2 of 4, right? 25 A. Yes.</p>
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<p>1 Q. And then there is on page 21 what appears to 2 be an additional assignment from Finance America to 3 MERS, and it appears to be dated 10/24 of '03 at 4 8:05 a.m.; is that correct? 5 A. Wait. You said that this -- you said it was 6 from Finance America to MERS? 7 Q. Correct. 8 A. Okay. Yes, it is at 8:05 a.m. 9 Q. So it appears at least that those two 10 documents were sent for recording in Chambers County 11 together, and they were recorded apparently from Global 12 Lending to Finance America and from Finance America to 13 MERS, correct? 14 A. I don't interpret it as Finance America is 15 assigning it to MERS. 16 Q. Okay. Tell me how you interpret it. 17 A. Well, it says -- it looks like it states MERS 18 as nominee for Finance America. 19 Q. Okay. Is the document titled an assignment of 20 mortgage? 21 A. Yes. 22 Q. And does it say that "For value received, the 23 undersigned holder of a mortgage (herein 'Assignor'), 24 whose address is 16802 Ashton Street, Irvine, California 25 92605 -- or 606, does hereby grant, sell, assign,</p>	<p>1 Q. And then the next page appears to have a 2 notarization from California by a person named Tuesday 3 Atkins, who says that Susan Martinez appeared before her 4 and executed this assignment, and that's 3 of 4, 5 correct? 6 A. Yes. 7 Q. And there is no 4 of 4 attached to that 8 document, is there? 9 A. No. 10 Q. The last page of that exhibit appears to me to 11 be an assignment from MERS, as nominee for Finance 12 America, to the Deutsche Bank trust that we were just 13 discussing earlier; is that correct? 14 A. Yes. 15 Q. And that document is dated 6/21 of 2007, is it 16 not? 17 A. Yes. 18 Q. Have you had any training or do you have any 19 knowledge or experience about who has the right to make 20 a mortgage assignment? 21 A. No, I don't have any training in that. 22 Q. Does it make sense to you that an entity can 23 only assign what it owns? 24 A. Does it make sense? 25 Q. (Counsel nods head.)</p>

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28 (Pages 109 to 112)

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<p>1 A. Yes.</p> <p>2 Q. Seem pretty simple?</p> <p>3 A. Yes.</p> <p>4 Q. And wouldn't it seem to require ownership of a</p> <p>5 mortgage to be able to assign it?</p> <p>6 A. Yes.</p> <p>7 Q. And you would agree that a mortgage is</p> <p>8 incident to the promissory note, correct?</p> <p>9 A. Correct.</p> <p>10 Q. So when you see a mortgage assignment, does it</p> <p>11 indicate to you that the person who is making the</p> <p>12 assignment is the owner of the debt at the time the</p> <p>13 assignment is made?</p> <p>14 MS. BEARDSLEY: Object to the form.</p> <p>15 A. Can you restate, please.</p> <p>16 Q. (BY MR. WOOTEN) Sure. I understand you don't</p> <p>17 have any legal training, and I'm not asking you to make</p> <p>18 a legal judgment.</p> <p>19 I'm simply stating that when you see an</p> <p>20 assignment of mortgage on a given date at a given time,</p> <p>21 do you interpret that document to mean that on that</p> <p>22 date, the owner of the mortgage and all that went with</p> <p>23 it assigned it to the entity that's indicated in the</p> <p>24 assignment?</p> <p>25 MS. BEARDSLEY: Object to the form.</p>	<p>1 A. That's a female.</p> <p>2 Q. She's currently employed by Litton?</p> <p>3 A. Yes.</p> <p>4 Q. What is her job function?</p> <p>5 A. Foreclosure manager.</p> <p>6 Q. Foreclosure manager. Is she an officer of</p> <p>7 Litton?</p> <p>8 A. She's assistant vice president.</p> <p>9 Q. Of Litton?</p> <p>10 A. Of Litton.</p> <p>11 Q. Okay. What about Monica Hardaway?</p> <p>12 A. And what about her?</p> <p>13 Q. Do you know if she's still employed with</p> <p>14 Litton?</p> <p>15 A. She is not an employee of Litton.</p> <p>16 Q. Okay. Do you know who Monica Hardaway is?</p> <p>17 A. Yes, I know who she is.</p> <p>18 Q. Is she a former employee of Litton?</p> <p>19 A. I don't know if she has ever been an employee</p> <p>20 of Litton.</p> <p>21 Q. What is your understanding of her employment</p> <p>22 situation?</p> <p>23 A. She works on site at Litton. For whom, I do</p> <p>24 not know.</p> <p>25 Q. Is it possible she's an LPS employee?</p>
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<p>1 A. Yes, it would -- yes, you would assume that</p> <p>2 the holder of the note is assigning the mortgage.</p> <p>3 Q. (BY MR. WOOTEN) Are you familiar with MERS'</p> <p>4 rules and regulations at all?</p> <p>5 A. No.</p> <p>6 Q. Okay. If MERS' rules and regulations state</p> <p>7 that the only person who can assign a mortgage in MERS'</p> <p>8 name is the owner of the debt instrument, you would not</p> <p>9 have a quibble with that, would you?</p> <p>10 MS. BEARDSLEY: Object to the form. She</p> <p>11 said she didn't know what their regulations are.</p> <p>12 Q. (BY MR. WOOTEN) I'm asking you if I show you</p> <p>13 the documents that say that only the owner of the debt</p> <p>14 may assign the mortgage in MERS' name, you wouldn't</p> <p>15 quibble with that authority, would you?</p> <p>16 MS. BEARDSLEY: Object to the form.</p> <p>17 Q. (BY MR. WOOTEN) You can answer.</p> <p>18 A. I mean, no, if that's what their rules are.</p> <p>19 Q. Right. The persons making this assignment in</p> <p>20 the name of MERS for Finance America on this day,</p> <p>21 they're all employees of Litton, aren't they?</p> <p>22 A. Which one?</p> <p>23 Q. The last one, page 24 of 24.</p> <p>24 A. Marti Noriega is employed by Litton.</p> <p>25 Q. Is that a female or a male?</p>	<p>1 A. That could be possible.</p> <p>2 Q. Is there a segregated portion of your facility</p> <p>3 dedicated to LPS employees?</p> <p>4 A. No.</p> <p>5 Q. Do you know if Monica Hardaway works in the</p> <p>6 same general part of your building or business that</p> <p>7 Marti Noriega works in?</p> <p>8 A. Yes.</p> <p>9 Q. So they are more or less in the same</p> <p>10 department?</p> <p>11 A. That probably is an accurate statement.</p> <p>12 Q. Do you know if Marti Noriega is employed by</p> <p>13 MERS or receives any compensation from MERS?</p> <p>14 A. No.</p> <p>15 Q. You don't know or she's not?</p> <p>16 A. To my knowledge, she is not an employee of</p> <p>17 MERS.</p> <p>18 Q. Is she one of those people that sign one of</p> <p>19 those forms so she can sign things in the name of MERS?</p> <p>20 A. There is documentation giving her authority to</p> <p>21 sign on behalf of MERS.</p> <p>22 Q. And all that documentation says it's subject</p> <p>23 to the rules of membership of MERS; is that correct?</p> <p>24 A. I don't recall what it states, but yes.</p> <p>25 Q. Okay. With respect to -- let me ask you</p>

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29 (Pages 113 to 116)

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<p>1 generally, the plain language of Exhibit 12 says that</p> <p>2 Litton is acting as agent for Deutsche Bank in their</p> <p>3 capacity as trustee for this trust, right?</p> <p>4 A. Yes.</p> <p>5 Q. So the right to foreclose and enforce a debt</p> <p>6 would depend on the ownership of the debt, right?</p> <p>7 A. Right.</p> <p>8 Q. And Litton certainly doesn't claim ownership</p> <p>9 of the debt.</p> <p>10 A. Correct.</p> <p>11 Q. Litton is acting in the classic capacity of</p> <p>12 servicer, right?</p> <p>13 A. Yes.</p> <p>14 Q. And so all the actions of Litton and Deutsche</p> <p>15 Bank in this case depend upon Deutsche Bank's contention</p> <p>16 that they own this loan, right?</p> <p>17 A. Correct.</p> <p>18 Q. Is there anything in the motion for relief</p> <p>19 from stay filed that I've marked as Exhibit 12 that</p> <p>20 indicates that this trust owns this particular mortgage</p> <p>21 note?</p> <p>22 A. No, not -- not as displayed here, no.</p> <p>23 Q. And you testified earlier that you had given</p> <p>24 me everything that you had with respect to any</p> <p>25 endorsements or allonges to this note, right?</p>	<p>1 process is.</p> <p>2 Q. So if legal process was served upon Litton</p> <p>3 asking you to produce these documents, you would produce</p> <p>4 not only the documents that you had, but whatever</p> <p>5 documents your principal had reflecting their ownership</p> <p>6 of this loan, right?</p> <p>7 MS. BEARDSLEY: Object to the form.</p> <p>8 A. Well, that would depend on what was requested.</p> <p>9 Q. (BY MR. WOOTEN) Proof of ownership of the</p> <p>10 debt and the form of all endorsements and all allonges,</p> <p>11 right?</p> <p>12 A. Right.</p> <p>13 Q. So if the custodian or the trustee had</p> <p>14 additional documents that tended to support or prove</p> <p>15 their ownership, you would also be able to access that</p> <p>16 information by making a request on a form for a release</p> <p>17 of that information, or your company?</p> <p>18 A. Yes.</p> <p>19 Q. And everyone in your department knows how to</p> <p>20 do that or knows someone who knows how to do that,</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And Litton certainly doesn't make it a habit</p> <p>24 of not complying with legal process, right?</p> <p>25 A. Correct.</p>
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<p>1 A. I said to my knowledge.</p> <p>2 Q. Sure. And if you were requested under legal</p> <p>3 process to produce those documents, you wouldn't hold</p> <p>4 any back, especially if they proved you owned the debt,</p> <p>5 would you?</p> <p>6 A. No.</p> <p>7 Q. So is it fair to say if they're not present,</p> <p>8 you don't have them?</p> <p>9 A. Not in my custody, no.</p> <p>10 Q. Well, custody is an interesting term, isn't</p> <p>11 it? Because you have Deutsche Bank in this case acting</p> <p>12 as the trustee and the custodian, right?</p> <p>13 A. Well, I don't know who the custodian is.</p> <p>14 Q. Well, we'll talk about that in a minute, but</p> <p>15 for purposes of this question, just assume that they are</p> <p>16 the custodian, okay? There's a real simple form that</p> <p>17 you can send to the custodian for any of these documents</p> <p>18 related to the loan, right? As a matter of fact, it's</p> <p>19 an electronic request, isn't it?</p> <p>20 MS. BEARDSLEY: Object to the form.</p> <p>21 A. A request can be made upon custodians for</p> <p>22 documents, yes.</p> <p>23 Q. (BY MR. WOOTEN) And it's not a complicated</p> <p>24 form, and Litton uses them all the time, right?</p> <p>25 A. I have never done it, so I don't know what the</p>	<p>1 Q. So is it fair to say that if you made an</p> <p>2 inquiry and you requested those documents, you got</p> <p>3 everything there was?</p> <p>4 A. Yes.</p> <p>5 Q. One more general question. If you want to</p> <p>6 foreclose on a borrower, isn't it a requirement that you</p> <p>7 have a valid and enforceable mortgage lien?</p> <p>8 A. That's correct.</p> <p>9 Q. And what is your understanding of the</p> <p>10 situation where your mortgage lien reflects a different</p> <p>11 property description than the deed?</p> <p>12 A. What is my understanding of that?</p> <p>13 Q. Is there any right to foreclose upon a</p> <p>14 defective legal description?</p> <p>15 A. No.</p> <p>16 Q. Okay. You have rights or the lender has</p> <p>17 rights to seek to have that cured if there's a problem,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. They call it a reformation, right? Is that</p> <p>21 right? You reform the description to make it conform to</p> <p>22 the proper description if it's an honest mistake?</p> <p>23 A. Uh-huh.</p> <p>24 (Plaintiff's Exhibit No. 13</p> <p>25 marked for identification.)</p>

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<p>1 Q. (BY MR. WOOTEN) Let me show you what I've 2 marked as 168, 169, 170, and 171. It's a letter from 3 Colleen McCullough of the Sirote firm dated May 8th, 4 2007.</p> <p>5 And I'll ask you to turn to the second 6 page. I've highlighted some entries made by her. Would 7 you please read that into the record.</p> <p>8 A. "Documents in Book 2003, Page 3922; Book 2003, 9 Page 3924; Book 2003, Page 2923; and Book 339, Page 132 10 do not fully describe the property."</p> <p>11 "Also, we will need an assignment from 12 MERS as nominee for Finance America into Deutsche Bank 13 National Trust Company, as trustee. The assignment will 14 need to include the full name of the applicable trust."</p> <p>15 Q. Okay. And that's in May of 2007, correct? 16 A. Correct.</p> <p>17 Q. And that document says that your legal 18 description is not accurate, doesn't it? 19 A. Yes, it does.</p> <p>20 Q. Do you have any records which indicate that 21 the legal description was ever corrected legally and 22 enforceably after that date? 23 A. I have not seen any records.</p> <p>24 Q. Okay. Are you aware whether any litigation 25 was commenced in the name of Litton or any party, be it</p>	<p>1 2003-1 -- 2 A. Uh-huh.</p> <p>3 Q. -- the trust agreement is referred to as a 4 Pooling and Servicing Agreement. And within that 5 agreement, there are certain rights to request a loan be 6 repurchased. 7 A. Uh-huh.</p> <p>8 Q. One of those is an impairment to the lien. 9 A. Uh-huh.</p> <p>10 Q. So if there is a contractual agreement 11 authorizing Deutsche Bank or Litton to request the loan 12 be repurchased because of an impairment of title, that 13 would also be a remedy for Litton and Deutsche Bank 14 short of suing Lorraine Hudson to try to have that title 15 reformed, right? 16 A. Yes.</p> <p>17 Q. And you would have the right to claim on the 18 title insurance, right? 19 A. Yes.</p> <p>20 Q. But you wouldn't have the right to foreclose, 21 would you? 22 A. No.</p> <p>23 MR. WOOTEN: Let's break for lunch 24 because of where we are. And if y'all want to take a 25 short lunch, like 30 minutes or so, and then we'll try</p>
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<p>1 Deutsche Bank or Finance America, seeking to reform the 2 description in the mortgage to conform to the 3 description in the deed? Are you aware of any 4 litigation to that effect? 5 A. No.</p> <p>6 Q. Are you aware of any documents executed by the 7 borrower which would correct the legal description? 8 A. No, I am not.</p> <p>9 Q. What typically happens in a scenario where a 10 closing agent messes up a description such as that and 11 the lien is voided or the lien is unenforceable for some 12 reason? 13 A. What happens? 14 Q. (Counsel nods head.) 15 A. And you say who made the mistake? 16 Q. The closing agent or attorney who closed the 17 loan, someone other than you. 18 A. We will make a demand upon the title insurer.</p> <p>19 Q. And under the securitization agreements, you 20 would also have the right to have the originator 21 repurchase the loan, wouldn't you? 22 A. Under what agreement? 23 Q. Under the trust agreement which formed the 24 Deutsche Bank National Trust Company as trustee mortgage 25 trust called the Finance America Mortgage Loan Trust</p>	<p>1 to move on to some of the other stuff, okay? 2 (Recess taken from 11:46 a.m. to 3 12:32 p.m.) 4 (Plaintiff's Exhibit No. 14 5 marked for identification.)</p> <p>6 Q. (BY MR. WOOTEN) I'm going to show you what 7 I've marked as Plaintiff's Exhibit 14 and ask if you can 8 tell me what the contents of that document are, what 9 that's supposed to represent. 10 A. It looks like it's a screen shot of a 11 bankruptcy page.</p> <p>12 Q. Okay. Is that a complete representation of 13 all the data that's available to Litton on that screen 14 shot? 15 A. No, it isn't.</p> <p>16 Q. What else is available to Litton that's not 17 present there? 18 A. Well, there should be some data here regarding 19 the filing, but it's not here.</p> <p>20 Q. Okay. Are there some attachments to that 21 document? 22 A. Yes.</p> <p>23 Q. Are those attachments numbered sequentially to 24 the first page? 25 A. Yes.</p>

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<p>1 Q. What is contained in the pages following that</p> <p>2 first page of that exhibit?</p> <p>3 A. It looks like it's a modified version of the</p> <p>4 payment history.</p> <p>5 Q. Okay. And tell me every way it is modified.</p> <p>6 A. Well, it's not as -- in detail as the detailed</p> <p>7 transaction history.</p> <p>8 Q. I'm going to hand you back -- this is</p> <p>9 Exhibit 12 and a copy, if you'll take a look at that. I</p> <p>10 want to talk to you about the terms of this mortgage.</p> <p>11 Just a minute. Let me dig around and</p> <p>12 find my forms. There we go.</p> <p>13 If you would -- and I'm going to mark</p> <p>14 this as Plaintiff's Exhibit 15.</p> <p>15 (Plaintiff's Exhibit No. 15</p> <p>16 marked for identification.)</p> <p>17 Q. (BY MR. WOOTEN) I'll just ask you to verify</p> <p>18 that this is a true and exact copy of my client's</p> <p>19 mortgage. And I'll -- we'll go over that stuff in a</p> <p>20 minute. I just want to make sure that you agree that's</p> <p>21 all the pages of the mortgage and it agrees with the</p> <p>22 number of pages and things that are contained in the</p> <p>23 previously marked exhibit. I believe it's No. 12.</p> <p>24 A. Yes.</p> <p>25 Q. All right. If you would, would you flip over</p>	<p>1 communications about defects in the actual documents as</p> <p>2 far as conveyancing documents between parties such as</p> <p>3 sellers and purchasers?</p> <p>4 MS. BEARDSLEY: Object to the form.</p> <p>5 A. Do we have what?</p> <p>6 Q. (BY MR. WOOTEN) Do you ever have any</p> <p>7 conversations, notes, communications addressing defects</p> <p>8 in the transfer of ownership of documents between the</p> <p>9 sellers of mortgages and the owners of mortgages?</p> <p>10 A. You mean on this particular loan or on any</p> <p>11 loans?</p> <p>12 Q. Just in general.</p> <p>13 A. That --</p> <p>14 (Plaintiff's Exhibit No. 15 re-marked</p> <p>15 for identification.)</p> <p>16 Q. (BY MR. WOOTEN) I'm going to let you take</p> <p>17 that one. I'm sorry. I didn't mean to interrupt you.</p> <p>18 A. Yeah, that -- there is generally some type of</p> <p>19 document memorializing that.</p> <p>20 Q. If you find a problem such as what we found</p> <p>21 earlier, the defect in a legal description, right?</p> <p>22 A. Right.</p> <p>23 Q. And typically the servicer has a protocol on</p> <p>24 how to handle that, right?</p> <p>25 A. Right.</p>
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<p>1 to page 3 of 12 under the uniform instrument markings,</p> <p>2 which would start with -- it says Uniform Covenants</p> <p>3 about the fourth paragraph down.</p> <p>4 A. Okay.</p> <p>5 Q. Are you able to see that okay? If you're like</p> <p>6 me, you'll need to put your glasses on. That's why I</p> <p>7 had to highlight mine.</p> <p>8 The first sentence of that paragraph</p> <p>9 says -- under No. 1, says, "The borrower shall pay when</p> <p>10 due the principal of, and interest on, the debt</p> <p>11 evidenced by the note and any prepayment charges and</p> <p>12 late charges due under the note."</p> <p>13 Is that right?</p> <p>14 Are you able to see that from that</p> <p>15 document?</p> <p>16 A. Barely.</p> <p>17 Q. Okay. Let me see if I have another copy of</p> <p>18 this that might be more visible. It's kind of hard to</p> <p>19 make out, I know. That's the bad thing about these</p> <p>20 depositions. There's so many documents in them, it's</p> <p>21 hard to keep up. Let me see if my copy is any better.</p> <p>22 Just a second and I will go over these</p> <p>23 piece by piece. I apologize. I didn't anticipate this</p> <p>24 problem, or I would have already had these copied.</p> <p>25 Did your company ever have any</p>	<p>1 Q. I want to hand you the document that I marked</p> <p>2 up so we can talk about these in a particular order.</p> <p>3 The first paragraph under Uniform Covenants numbered 1,</p> <p>4 the first sentence says, "Borrower shall pay when due</p> <p>5 the principal of, and interest on, the debt evidenced by</p> <p>6 the note and any prepayment charges and late charges due</p> <p>7 on the note," right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Other than that sentence in that</p> <p>10 paragraph, is there reference made to any other amounts</p> <p>11 that the borrower will pay under the note or under the</p> <p>12 mortgage?</p> <p>13 A. No, not in that sentence.</p> <p>14 Q. Okay. What about the rest of that paragraph?</p> <p>15 A. No.</p> <p>16 Q. Okay. The second paragraph -- I think it</p> <p>17 starts with maybe the first sentence highlighted in</p> <p>18 green; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And that sentence says, "Payments are deemed</p> <p>21 received by lender when received at the location</p> <p>22 designated in the note or at such other location as may</p> <p>23 be designated by lender in accordance with the notice</p> <p>24 provisions in Section 15," correct?</p> <p>25 A. Yes.</p>

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<p>1 Q. So under the contract, when a client pays a</p> <p>2 mortgage payment, such as Ms. Hudson, it is deemed</p> <p>3 received when it is received in the mail, even if it is</p> <p>4 not the date it is posted to the account, right?</p> <p>5 A. Yes. Well, it states that it's deemed</p> <p>6 received by lender when received at the location, so --</p> <p>7 Q. So wherever you tell the borrower to mail,</p> <p>8 when it's received in the mail, it's deemed received,</p> <p>9 right?</p> <p>10 (Interruption.)</p> <p>11 MR. WOOTEN: Off the record for a minute.</p> <p>12 (Discussion off the record.)</p> <p>13 Q. (BY MR. WOOTEN) Does your company track</p> <p>14 independently when payments are received versus when</p> <p>15 payments are posted to mortgage accounts?</p> <p>16 A. Yes, I believe so.</p> <p>17 Q. Okay. Any of the records that you presented</p> <p>18 today, such as Plaintiff's Exhibit 1, indicate when a</p> <p>19 payment is received versus when a payment is posted?</p> <p>20 Let me take a look at this. I just want</p> <p>21 to check something. Why don't you take a look at that.</p> <p>22 A. It's not on here.</p> <p>23 Q. Okay. And that is the internal accounting</p> <p>24 records or the internal life of the loan transaction</p> <p>25 history generated by your software, right?</p>	<p>1 A. They are credited as of the date of receipt.</p> <p>2 Q. Okay. Irrespective of how long they are held</p> <p>3 unapplied by your company?</p> <p>4 A. That's correct.</p> <p>5 Q. Does your company assess to the account</p> <p>6 charges, either late fees or any other type of fee,</p> <p>7 where money is held but not applied?</p> <p>8 MS. BEARDSLEY: Object to the form.</p> <p>9 Q. (BY MR. WOOTEN) In other words, if the 15th</p> <p>10 is the late payment -- it's late on the 15th, and that's</p> <p>11 the day you're supposed to charge your late fee and the</p> <p>12 borrower's payment is received on the 10th, but you</p> <p>13 don't post until the 18th, would the borrower be charged</p> <p>14 a late fee in that circumstance?</p> <p>15 A. They should not be.</p> <p>16 Q. Do you know if that occurs or not?</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. Are you the person who would know that</p> <p>19 information?</p> <p>20 A. Well, I routinely review payment histories,</p> <p>21 so --</p> <p>22 Q. Are you familiar with how software that your</p> <p>23 company uses is programmed to manage that situation?</p> <p>24 A. No.</p> <p>25 Q. Do you know who's actually in charge of</p>
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<p>1 A. Yes.</p> <p>2 Q. And it does not indicate any distinction</p> <p>3 between the date in which a transaction is received and</p> <p>4 the date on which it's posted.</p> <p>5 A. Exhibit 1 does not reflect that.</p> <p>6 Q. Where in Litton's records would you be able to</p> <p>7 ascertain that information?</p> <p>8 A. It would be available in LSAMS.</p> <p>9 Q. LSAMS?</p> <p>10 A. Yes.</p> <p>11 Q. Is there a special field for that?</p> <p>12 A. I don't know if there's a special field. I</p> <p>13 guess it's a view -- it depends on, I guess, how you</p> <p>14 look at the loan. It kind of depends on what you see,</p> <p>15 so there may be -- I think there's a different view on</p> <p>16 the system that displays that information.</p> <p>17 Q. Okay. Is there anything in any of the</p> <p>18 documents you've produced today regarding a payment</p> <p>19 history that would show us when my client's payments</p> <p>20 were received versus when they were actually posted to</p> <p>21 her account?</p> <p>22 A. Not that I know of.</p> <p>23 Q. Are you familiar with whether or not a</p> <p>24 borrower's payments are credited when received or</p> <p>25 credited when applied?</p>	<p>1 programming the software for those types of functions?</p> <p>2 MS. BEARDSLEY: Object to the form.</p> <p>3 A. No.</p> <p>4 Q. (BY MR. WOOTEN) Do you know what department</p> <p>5 would be responsible for that?</p> <p>6 MS. BEARDSLEY: Object to the form.</p> <p>7 A. Regarding -- regarding programming, period,</p> <p>8 that would be done within the information technology</p> <p>9 group.</p> <p>10 Q. (BY MR. WOOTEN) Who's in charge of that</p> <p>11 group?</p> <p>12 A. Jeff Roberts.</p> <p>13 Q. Jeff Roberts?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know what his title is?</p> <p>16 A. Chief technology officer.</p> <p>17 Q. Okay. The second sentence of that</p> <p>18 paragraph -- I've -- it's highlighted in orange -- says,</p> <p>19 "Lender may return any payment or partial payment if the</p> <p>20 payment or partial payments are insufficient to bring</p> <p>21 the loan current. Lender may accept any payment or</p> <p>22 partial payment insufficient to bring the loan current,</p> <p>23 without waiver of any rights hereunder or prejudice to</p> <p>24 its rights to refuse such payment or partial payments in</p> <p>25 the future, but lender is not obligated to apply such</p>



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<p>1 payments at the time such payments are accepted." 2 Is that where that orange highlighting 3 ends? 4 A. Yes. 5 Q. Okay. I read that to say that if you get an 6 irregular payment, something that's short, something 7 that's over, you can pretty much do what you want to 8 with it. Is that more or less how you read that? 9 MS. BEARDSLEY: Object to the form. 10 A. That's a good assessment of it. 11 Q. (BY MR. WOOTEN) It gives you flexibility. Is 12 that fair? 13 A. Yes. 14 Q. Would you agree that your flexibility might be 15 further limited by either your servicing agreement or 16 industry standards? 17 MS. BEARDSLEY: Object to the form. 18 A. No, I'm not really qualified to speak to that. 19 Q. (BY MR. WOOTEN) Okay. What about compliance 20 with law? If the law says that you must do certain 21 things with respect to partial payments, you would agree 22 that that would be binding on your company irrespective 23 of that clause in the contract? 24 MS. BEARDSLEY: I'm going to object to 25 the form. She's not going to be able to give you a</p>	<p>1 column numbered Section 229.1122, and it says, 2 "Compliance with applicable servicing criteria." Do you 3 see that heading? 4 A. Uh-huh. 5 Q. In the bottom of the middle column, at the 6 very bottom with the number 2, it says, "Cash Collection 7 and Administration." Do you see that heading? 8 A. Yes. 9 Q. Would you read the item numbered 1 in that 10 heading. 11 A. "Payments on pool assets are deposited into 12 the appropriate custodial bank accounts and related bank 13 clearing accounts no more than two business days of 14 receipt, or such other number of days specified in the 15 transaction agreements." 16 Q. Okay. With respect to -- if you will flip 17 over to the next page. Do you see the number in the 18 first column on the left numbered 4? It says, "Pool 19 asset administration." 20 A. Can you confirm the page number, please. 21 Q. 1614. 22 A. Okay. 23 Q. Do you see that item? 24 A. No. Can you repeat. 25 Q. Yeah. It's in the first column, the left</p>
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<p>1 legal opinion. 2 Q. (BY MR. WOOTEN) Well, your company will 3 follow the law with respect to the application of 4 payments, right? 5 MS. BEARDSLEY: I still object to the 6 form. 7 A. Do you want me to answer? 8 Q. (BY MR. WOOTEN) (Counsel nods head.) 9 A. I guess that would depend on if the law, 10 whoever or whatever that is, supersedes this document 11 here. 12 (Plaintiff's Exhibit No. 16 13 marked for identification.) 14 Q. (BY MR. WOOTEN) Let me show you what I've 15 marked as Plaintiff's Exhibit 16, and I'll represent to 16 you that that is a copy of Regulation AB, which is 17 promulgated by the Securities and Exchange Commission -- 18 A. Okay. 19 Q. -- dealing with the administration of 20 securitized assets, okay? 21 A. Okay. 22 Q. I ask you to turn to the page numbered 1613 of 23 that document, and that page number will be found at the 24 upper right. 25 Okay. There is a subheading in the left</p>	<p>1 column. Item No. 4 right above midway down, it says, 2 "Pool asset administration." 3 A. Yes. 4 Q. And right under No. 1, what does that heading 5 say? The Roman numeral I. I'm sorry. Right after the 6 "Pool asset administration" title. 7 MS. BEARDSLEY: There's not a heading. 8 MR. WOOTEN: There's a Roman numeral I. 9 MS. BEARDSLEY: There's not a Roman 10 numeral I. 11 Q. (BY MR. WOOTEN) Page 1614, you see No. 4 that 12 says "Pool asset administration"? 13 A. Uh-huh. 14 Q. Let me look at that. I'm sorry. 15 MS. BEARDSLEY: There's a little 1. It's 16 not a Roman numeral. 17 Q. (BY MR. WOOTEN) This is where I'm at, right 18 there (indicating), No. 1. Looking at that paragraph 19 right there, it says, "Collateral." 20 A. Okay. 21 Q. If you will, what does that entry besides that 22 small number 1, i, whatever you want to call that -- I 23 called it a Roman numeral I. I apologize. It begins 24 with "Collateral or security." 25 What does that paragraph say?</p>

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<p>1 A. "Collateral or security on pool assets is 2 maintained as required by the transaction agreements or 3 related pool asset documents." 4 Q. Okay. And then under the section, it says, 5 (iv), which I would have interpreted as Roman numeral 6 IV, what does that paragraph say? 7 A. "Payments on pool assets, including any 8 payoffs, made in accordance with the related pool asset 9 documents are posted to the applicable servicer's 10 obligor records maintained no more than two business 11 days after receipt, or such other number of days 12 specified in the transaction agreements, and allocated 13 to principal, interest, or other items (e.g., escrow) in 14 accordance with the related pool asset documents." 15 Q. Okay. And then in the middle column, a little 16 below halfway down, there is a paragraph that begins 17 with (xiii), which I would interpret as Roman numeral 18 XIII. Can you read that paragraph, please. 19 A. "Disbursements made on behalf of an obligor 20 are posted within two business days to the obligor's 21 records maintained by the servicer, or such other number 22 of days specified in the transaction agreements." 23 Q. Okay. With respect to those activities 24 regarding the management of securitized assets, do you 25 have an opinion or do you know whether or not your</p>	<p>1 I mean, it says what it says, but I'm not going to allow 2 her to answer questions interpreting it. 3 Q. (BY MR. WOOTEN) Do you know anyone in your 4 company who would have any familiarity with these types 5 of legal requirements for the servicing operations? 6 A. Yes. 7 Q. Who would that be? 8 A. Kathryn Bartz. 9 Q. Can you spell her name -- her last name for 10 us. 11 A. B-A-R-T-Z. 12 Q. And what's her position? 13 A. She's the vice president of compliance. 14 Q. Do you know if she's an attorney? 15 A. I do not know. 16 Q. And she currently holds that position? 17 A. Yes, she does. 18 Q. Do you know how long she's held that position? 19 A. I know at least three years. 20 Q. Okay. Other than Ms. Bartz, is there anyone 21 you know who might have information about how the 22 company -- what steps and actions they take to comply 23 with those requirements? 24 A. No. 25 Q. Does your company recognize any document</p>
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<p>1 company complies with those criteria? 2 MS. BEARDSLEY: I'm going to object. 3 Nick, she's not going to give you an answer on a legal 4 conclusion. I mean -- 5 MR. WOOTEN: I'm just asking her if she 6 has any information, Robin. I'm certainly not -- 7 MS. BEARDSLEY: You asked if she has an 8 opinion about it. 9 MR. WOOTEN: -- certainly not asking her 10 if she knows if -- well, let me rephrase the question. 11 MS. BEARDSLEY: Yeah. I'm not going to 12 allow her to answer questions interpreting legal 13 documents. 14 Q. (BY MR. WOOTEN) Do you know if your company 15 has any systems or procedures in place to comply with 16 those requirements? 17 A. To my knowledge, they do. 18 Q. Okay. And that is just based on your general 19 understanding of the company's business? 20 A. Yes. 21 Q. And you would agree that those sections 22 mentioned require payments to be posted within two days 23 of receipt; is that right? 24 MS. BEARDSLEY: I'm not going to allow 25 her to interpret what's said in these documents, Nick.</p>	<p>1 custodial procedures as authoritative or industry 2 standards? 3 MS. BEARDSLEY: Object to the form. 4 A. I don't know if I know what that -- what 5 you're asking. 6 Q. (BY MR. WOOTEN) Are you aware of any industry 7 standards regarding document custodial procedures or the 8 requirements of a document custodian? 9 MS. BEARDSLEY: Object to the form. 10 A. No. 11 Q. (BY MR. WOOTEN) In the absence of a specific 12 agreement regarding those actions, would your company 13 typically refer to guidance provided by entities such as 14 Fannie Mae and Freddie Mac? 15 A. Yes, that is possible. 16 Q. Is it true that Fannie Mae and Freddie Mac are 17 typically considered industry standards with respect to 18 the activities of mortgage lending and servicing? 19 MS. BEARDSLEY: Object to the form. 20 A. Can you repeat the question, please. 21 Q. (BY MR. WOOTEN) Sure. Is it -- are the 22 entities commonly referred to as Fannie Mae and Freddie 23 Mac typically considered to be publishers of the 24 industry standards for the activities related to 25 mortgage lending and mortgage servicing?</p>

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<p>1 MS. BEARDSLEY: Object to the form.</p> <p>2 A. Yeah, I don't -- I don't know.</p> <p>3 Q. (BY MR. WOOTEN) Okay. Do you know who in</p> <p>4 your firm or business would be able to identify any</p> <p>5 source of industry standards that they believe would</p> <p>6 apply in the absence of specific instructions?</p> <p>7 A. I would say that would be Kathryn Bartz.</p> <p>8 Q. Okay. Back to the mortgage document, there's</p> <p>9 another paragraph, I think a portion of that paragraph</p> <p>10 that's highlighted in yellow, and I think that last</p> <p>11 sentence of that section deals with the statement -- or</p> <p>12 last two sentences, which says, "Lender may hold such</p> <p>13 unapplied funds until borrower makes payment to bring</p> <p>14 the loan current. If borrower does not do so within a</p> <p>15 reasonable period of time, lender shall either apply</p> <p>16 such funds or return them to borrower."</p> <p>17 Is that where the highlighting ended on</p> <p>18 that statement?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know if there are any standards that</p> <p>21 your company sets as a reasonable time for a cure by a</p> <p>22 borrower?</p> <p>23 A. No.</p> <p>24 Q. Do you know who would have that information?</p> <p>25 A. No, I don't.</p>	<p>1 Section 5; and mortgage insurance premiums, if any, or</p> <p>2 any sums payable by borrower to lender in lieu of the</p> <p>3 payment of mortgage insurance premiums."</p> <p>4 Q. Okay. Is there any portion of paragraph 3</p> <p>5 that deals with the assessment or application of any</p> <p>6 type of fee or charge other than those specifically</p> <p>7 delineated?</p> <p>8 And let me ask a better question. Does</p> <p>9 paragraph 3 provide any mechanism to apply any charge or</p> <p>10 fee not specifically listed to the escrow account of the</p> <p>11 borrower?</p> <p>12 A. Can you say that again. Does it --</p> <p>13 Q. In other words, no item such as late charges</p> <p>14 BPO fees, property inspections, anything like that,</p> <p>15 should ever be applied to an escrow account, right?</p> <p>16 A. Correct.</p> <p>17 Q. And we talked about earlier today that escrow</p> <p>18 accounts are governed and controlled by the federal law</p> <p>19 that's commonly referred to as RESPA, right?</p> <p>20 A. Yes.</p> <p>21 Q. And that also sets forth the limitations on</p> <p>22 what can be included in an escrow account, right?</p> <p>23 A. Yes.</p> <p>24 Q. With respect to any other amounts -- when it</p> <p>25 talks about amounts which can attain priority, those are</p>
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<p>1 Q. Look at paragraph No. 2 for me, please. The</p> <p>2 title of that paragraph is: Application of payments or</p> <p>3 proceeds. Is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Does that paragraph set forth the priority for</p> <p>6 which money is applied to a loan when it is paid under</p> <p>7 this agreement?</p> <p>8 A. Yes.</p> <p>9 Q. And what is the order, according to this</p> <p>10 mortgage, by which funds should be applied?</p> <p>11 A. Interest due under the note, principal due</p> <p>12 under the note, amounts due under Section 3.</p> <p>13 Q. Okay. Jump down, if you will, to Section 3.</p> <p>14 And what is the heading of that paragraph?</p> <p>15 A. "Funds for escrow items."</p> <p>16 Q. And does that paragraph indicate what items</p> <p>17 are considered escrow items?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And what items are considered escrow</p> <p>20 items under paragraph 3?</p> <p>21 A. "Taxes and assessments and other items which</p> <p>22 can attain priority over this security instrument as a</p> <p>23 lien or encumbrance on the property; leasehold payments</p> <p>24 or ground rents on the property, if any; premiums for</p> <p>25 any and all insurance required by lender under</p>	<p>1 things like condo association fees, homeowner dues,</p> <p>2 things of that nature, which the borrower has granted</p> <p>3 someone the right to come in and foreclose if it's</p> <p>4 unpaid, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And those are items that you can and do in</p> <p>7 instances include in escrow, right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. With respect to -- going back to</p> <p>10 paragraph 2 for a minute, after the sentence that ended</p> <p>11 with the heading of C that says, "Amounts due under</p> <p>12 Section 3," the rest of that paragraph says, "Such</p> <p>13 payments shall be applied to each periodic payment in</p> <p>14 the order in which it became due. Any remaining" --</p> <p>15 tell me what that word is, because mine's a little</p> <p>16 blurred. "Any remaining amounts" --</p> <p>17 A. Yes.</p> <p>18 Q. -- "shall be applied first to late charges,</p> <p>19 second to any other amounts due under this security</p> <p>20 instrument, and then to reduce the principal balance of</p> <p>21 the note"; is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. Is there anything in that paragraph that</p> <p>24 allows that payment priority to be changed from those</p> <p>25 items specifically set forth therein?</p>

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<p>1 A. No, not in this paragraph.</p> <p>2 Q. Okay. On the next page of the mortgage on the</p> <p>3 uniform -- it's page No. 4 of 12 of the uniform</p> <p>4 instrument, the first full paragraph about halfway down</p> <p>5 the page is a highlighted sentence that says, "Lender</p> <p>6 may, at any time, collect and hold funds in an amount</p> <p>7 sufficient to permit lender to apply the funds at the</p> <p>8 time specified under RESPA, and not to exceed the</p> <p>9 maximum amount a lender can require under RESPA,"</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. That basically addresses the -- your</p> <p>13 right to set an annual escrow amount to cover the</p> <p>14 ordinary and necessary expenses that you're escrowing</p> <p>15 for, correct?</p> <p>16 A. Correct.</p> <p>17 Q. On the next page, there is a paragraph 5</p> <p>18 dealing with property insurance. And is it fair to say</p> <p>19 the first portion of that paragraph deals with types of</p> <p>20 insurance that the lender's able to require the borrower</p> <p>21 to keep in place?</p> <p>22 A. Yes.</p> <p>23 Q. And that includes loss by fire and then other</p> <p>24 things like earthquakes and floods, depending on the</p> <p>25 location of the property?</p>	<p>1 A. Yes, I did.</p> <p>2 Q. All right. And would she know more about the</p> <p>3 relationships between your firm and those insurance</p> <p>4 companies than you do as we sit here today?</p> <p>5 A. Yes, she will.</p> <p>6 Q. Are you certain that no one in your firm is an</p> <p>7 agent of any of these providers, or is that just your</p> <p>8 best information?</p> <p>9 A. That's my best information.</p> <p>10 Q. Do you know whether or not any commissions are</p> <p>11 paid either to your firm or any person affiliated with</p> <p>12 your firm for the placement of this insurance?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. Later on in that paragraph, there's another</p> <p>15 highlighted section down toward the bottom. Does it</p> <p>16 begin with "Any amounts distributed by lender -- or</p> <p>17 disbursed by lender"?</p> <p>18 A. Yes.</p> <p>19 Q. And it basically -- those couple of sentences</p> <p>20 say, "Any amounts disbursed by lender under this</p> <p>21 Section 5 shall become additional debt of the borrower</p> <p>22 secured by this security instrument. These amounts</p> <p>23 shall bear interest at the note rate from the date of</p> <p>24 disbursement and shall be payable, with such interest,</p> <p>25 upon notice from the lender to the borrower requesting</p>
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<p>1 A. Correct.</p> <p>2 Q. The next paragraph deals with what happens if</p> <p>3 a borrower fails to provide that coverage; is that</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And in the first sentence of that paragraph,</p> <p>7 it gives you the right to obtain that coverage for the</p> <p>8 borrower if it's absent; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. With respect to the forced placed insurance</p> <p>11 that was placed on Ms. Hudson's account, is there any</p> <p>12 relationship between your firm and the companies which</p> <p>13 provided that insurance?</p> <p>14 A. Can you define relationship?</p> <p>15 Q. Well, I've heard it characterized a lot of</p> <p>16 ways in these cases, but I guess the primary thing I'm</p> <p>17 concerned about is whether or not your firm has any</p> <p>18 compensation arrangement with these entities for placing</p> <p>19 this insurance.</p> <p>20 A. No.</p> <p>21 Q. Your firm does not have anyone on staff who is</p> <p>22 an agent of any of these companies?</p> <p>23 A. Not that I know of.</p> <p>24 Q. Okay. Did you already tell me who managed the</p> <p>25 insurance department for your firm?</p>	<p>1 payment," right?</p> <p>2 A. Right.</p> <p>3 Q. Okay. Are you familiar at all with RESPA law?</p> <p>4 MS. BEARDSLEY: I'm going to -- she's --</p> <p>5 Q. (BY MR. WOOTEN) I mean, just --</p> <p>6 MS. BEARDSLEY: Object to the form.</p> <p>7 Q. (BY MR. WOOTEN) -- are you familiar with the</p> <p>8 requirements of RESPA dealing with forced placed</p> <p>9 insurance?</p> <p>10 A. No.</p> <p>11 Q. This instrument indicates that you can request</p> <p>12 payment from the borrower pretty much at any time for</p> <p>13 the amount due with interest, right?</p> <p>14 A. Right.</p> <p>15 Q. And that would be the lump sum amount of</p> <p>16 what's due, correct?</p> <p>17 A. Well, I don't know if it's lump sum, but --</p> <p>18 Q. In the accounting history you provided to us,</p> <p>19 it's charged as lump sum to the borrower's account,</p> <p>20 correct?</p> <p>21 A. You mean the disbursement?</p> <p>22 Q. Right.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And this paragraph indicates that it</p> <p>25 becomes additional debt, right?</p>

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<p>1 A. Yes.</p> <p>2 Q. With respect to escrow items, isn't it a fact</p> <p>3 that those escrow items are required to be financed or</p> <p>4 paid out over a 12-month period?</p> <p>5 A. I'm not sure I understand what you're saying.</p> <p>6 Q. RESPA generally requires that you take the</p> <p>7 amounts that are due and spread it out over 12 monthly</p> <p>8 installments so that the borrower pays the amounts due</p> <p>9 for that year in that 12-month window, correct?</p> <p>10 MS. BEARDSLEY: Object to the form.</p> <p>11 A. Yes.</p> <p>12 Q. (BY MR. WOOTEN) Okay. So amounts charged for</p> <p>13 forced placed insurance under your agreement become</p> <p>14 additional debt, right?</p> <p>15 A. Yes.</p> <p>16 Q. And it says you can demand full payment with</p> <p>17 interest, right?</p> <p>18 A. Yes.</p> <p>19 Q. RESPA does not allow you to charge interest to</p> <p>20 a borrower for items being escrowed, does it?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. So is it fair to say that forced placed</p> <p>23 insurance, according to the terms of this paragraph,</p> <p>24 should be included in fees and charges to the borrower</p> <p>25 rather than RESPA -- or escrow items?</p>	<p>1 Q. So you are not charging interest per the</p> <p>2 contractual agreement for those amounts?</p> <p>3 A. No.</p> <p>4 Q. Do you know if you have ever told Ms. Hudson</p> <p>5 in writing pursuant to RESPA that she has the right to</p> <p>6 pay that insurance out over 12 months?</p> <p>7 A. Yes, I believe we have.</p> <p>8 Q. The forced placed insurance.</p> <p>9 A. I know Ms. Hudson was provided escrow</p> <p>10 analysis.</p> <p>11 Q. Okay.</p> <p>12 A. And so those statements are going to reflect</p> <p>13 whatever -- you know, the calculation is going to</p> <p>14 include whatever advance is due on the loan.</p> <p>15 Q. Sure. Do you know if those statements</p> <p>16 provided to Ms. Hudson a description of why her escrow</p> <p>17 was in a negative balance and why the escrow amount was</p> <p>18 the amount -- let me back up and break that down. It's</p> <p>19 a little bit too complex even for me.</p> <p>20 Do you know why -- if the escrow analysis</p> <p>21 provided annually pursuant to RESPA, if it broke out all</p> <p>22 the charges that made up the balance of her escrow</p> <p>23 deficiency?</p> <p>24 A. I can't answer that. I don't recall.</p> <p>25 Q. Typically your escrow analysis would show the</p>
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<p>1 MS. BEARDSLEY: Object to the form.</p> <p>2 A. Can you repeat that.</p> <p>3 Q. (BY MR. WOOTEN) Sure. We talked about the</p> <p>4 fact that RESPA does not allow you to charge interest to</p> <p>5 the borrower for the terms that are paid out over 12</p> <p>6 months, right?</p> <p>7 A. Right.</p> <p>8 Q. And so if you are charging interest and making</p> <p>9 a demand for full payment of this charge, that is a fee;</p> <p>10 it is not an amount included in escrow, right?</p> <p>11 A. Well, I don't know.</p> <p>12 Q. But your firm does treat forced placed</p> <p>13 insurance as an escrow item in its accounting, correct?</p> <p>14 A. Yes, it does.</p> <p>15 Q. Do you know what the escrow balance of</p> <p>16 Lorraine Hudson's loan would be if forced placed</p> <p>17 insurance was not charged to her escrow account?</p> <p>18 A. No, I don't.</p> <p>19 Q. Do you know how many years' premium of forced</p> <p>20 placed insurance have been charged to her escrow</p> <p>21 account?</p> <p>22 A. Four or five.</p> <p>23 Q. Do you know how much interest has been charged</p> <p>24 to her account as a result of those charges?</p> <p>25 A. None.</p>	<p>1 amount of deficiency plus the amount to pay the next</p> <p>2 year, and that would be divided by 12, right?</p> <p>3 A. Yes.</p> <p>4 Q. Isn't it true under RESPA that when the escrow</p> <p>5 changes significantly that you are required to provide a</p> <p>6 written notice to the borrower explaining the change in</p> <p>7 the escrow terms so that they can adjust their payment?</p> <p>8 MS. BEARDSLEY: Object to the form.</p> <p>9 A. I don't know what RESPA states in that regard.</p> <p>10 Q. (BY MR. WOOTEN) Are you familiar with your</p> <p>11 company's practices in that regard?</p> <p>12 A. Somewhat.</p> <p>13 Q. Do you know if they do that?</p> <p>14 A. I know prior to us obtaining lender placed</p> <p>15 insurance, the customer is notified that such insurance</p> <p>16 is necessary. They also provide a letter advising what</p> <p>17 their premium amount will be should Litton purchase such</p> <p>18 insurance prior to the policy actually being obtained.</p> <p>19 Q. All right. Once it's obtained and you charge</p> <p>20 this amount to their escrow account, is there a writing</p> <p>21 issued that says "Your old escrow payment was X; your</p> <p>22 new payment is Y, and here's the reason that your escrow</p> <p>23 changed"?</p> <p>24 A. I don't -- to my knowledge, there isn't a</p> <p>25 standard notification that goes out in that regard other</p>

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<p>1 than the analysis.</p> <p>2 Q. And if we requested all of your correspondence</p> <p>3 in your system with our -- with my client and you</p> <p>4 responded that you'd provided that, it would include any</p> <p>5 documents that you had sent of that nature regarding</p> <p>6 RESPA compliance and that sort of thing, right?</p> <p>7 A. Yes.</p> <p>8 Q. And you have not withheld any documents</p> <p>9 related to that for this case, have you?</p> <p>10 A. I have not.</p> <p>11 Q. Or your company has not?</p> <p>12 A. No.</p> <p>13 Q. Would you flip over to -- I think it's the</p> <p>14 next page under paragraph No. 7. That deals with the</p> <p>15 heading called Preservation, Maintenance, and Protection</p> <p>16 of the Property; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that says that the borrower covenants not</p> <p>19 to destroy, damage, or impair the property or allow the</p> <p>20 property to deteriorate or commit waste on the property.</p> <p>21 Is that a fair statement?</p> <p>22 A. Yes.</p> <p>23 Q. And it also says, the next paragraph, that the</p> <p>24 "Lender or its agent may make reasonable entries upon</p> <p>25 and inspections of the property. If it has reasonable</p>	<p>1 investor and the investors agree to pay for them, would</p> <p>2 it be proper to ask the borrower to pay for them a</p> <p>3 second time?</p> <p>4 A. No.</p> <p>5 Q. Take a look down at paragraph 9 for me,</p> <p>6 please. That is a paragraph dealing with the lender's</p> <p>7 rights in property under the mortgage in the event of a</p> <p>8 breach of covenant or a default, right?</p> <p>9 A. Right.</p> <p>10 Q. What does the first highlighted portion of</p> <p>11 that paragraph say?</p> <p>12 A. "If (a) borrower fails to perform the</p> <p>13 covenants and agreements contained in this security</p> <p>14 instrument" -- keep going?</p> <p>15 Q. Sure.</p> <p>16 A. -- "there is a legal proceeding that might</p> <p>17 significantly affect lender's interest in the property</p> <p>18 and/or rights under this security instrument (such as a</p> <p>19 proceeding in bankruptcy, probate, for condemnation of</p> <p>20 forfeiture, for enforcement of a lien which may attain</p> <p>21 priority over this security instrument or to enforce</p> <p>22 laws or regulations."</p> <p>23 Q. Okay. With respect to -- the next section</p> <p>24 deals with whether or not the borrower has abandoned the</p> <p>25 property; is that correct?</p>
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<p>1 cause, lender may inspect the interior of the</p> <p>2 improvements on the property. Lender shall give</p> <p>3 borrower notice at the time of or prior to such an</p> <p>4 interior inspection specifying such reasonable cause,"</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. Is there anything in this paragraph</p> <p>8 authorizing inspections of the property merely because</p> <p>9 the borrower's in default?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of any industry standards</p> <p>12 regarding when a servicer should inspect a property?</p> <p>13 A. No.</p> <p>14 Q. Are you aware of whether or not there are any</p> <p>15 agreements between Litton Loans and the investor to be</p> <p>16 reimbursed for the cost of any inspections?</p> <p>17 A. No.</p> <p>18 Q. You are not aware of any?</p> <p>19 A. No.</p> <p>20 Q. Do you know if there may be agreements of that</p> <p>21 nature that you just have not seen or reviewed?</p> <p>22 A. That's correct. They may be available. I</p> <p>23 just don't have knowledge nor have I reviewed them.</p> <p>24 Q. Sort of a similar issue to the broker price</p> <p>25 opinion, if these inspections are at the request of the</p>	<p>1 A. Yes.</p> <p>2 Q. So under that section, it sets forth three</p> <p>3 specific areas where you're authorized to act to protect</p> <p>4 your interests, right?</p> <p>5 A. Right.</p> <p>6 Q. And with respect to Ms. Hudson's loan, you</p> <p>7 would agree that we're dealing merely with a proceeding</p> <p>8 in bankruptcy, right?</p> <p>9 A. Right.</p> <p>10 Q. And you would agree that your actions with</p> <p>11 respect to things done on your behalf would arise only</p> <p>12 out of protecting your interest in the lien, which is</p> <p>13 securing payment for your note, right?</p> <p>14 A. Yes.</p> <p>15 Q. So what you'd be looking for is things like</p> <p>16 statements in the bankruptcy plan that says "I don't owe</p> <p>17 you any money; you don't have a lien," right? I mean,</p> <p>18 as a threshold matter, you want to make sure that the</p> <p>19 borrower is not doing anything to say that you don't</p> <p>20 have the right to a lien, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And then the next thing you'd be looking for</p> <p>23 is whether or not you were entitled to relief from stay</p> <p>24 because of either a violation of the plan or failure to</p> <p>25 make post-petition payments or something of that nature,</p>

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<p>1 right?</p> <p>2 A. Right.</p> <p>3 Q. There is nothing else in paragraph 9 with</p> <p>4 respect to those three rationales other than the fact</p> <p>5 that the client is in Chapter 13 that apply in</p> <p>6 Ms. Hudson's situation, right?</p> <p>7 And I'm talking about heading A, B, or C.</p> <p>8 A. Right.</p> <p>9 Q. With respect to the next portion of that</p> <p>10 paragraph dealing with what your rights are in the event</p> <p>11 that one of those three areas of authority come up,</p> <p>12 would you agree that basically that clause then states</p> <p>13 that you have the right to step in and do -- it sets</p> <p>14 forth subheadings under A, B, and C in that next</p> <p>15 sentence; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And that includes the right to pay off, for</p> <p>18 instance, a homeowner's dues that's not paid so that</p> <p>19 they don't foreclose on your property, right?</p> <p>20 A. Right.</p> <p>21 Q. Or to show up in court and explain why you</p> <p>22 have a lien, right?</p> <p>23 A. Right.</p> <p>24 Q. Or to pay costs for an attorney to appear in</p> <p>25 court, and that deals with things like we talked about</p>	<p>1 it up, secure it, or anything like that, right?</p> <p>2 A. No.</p> <p>3 Q. And y'all have known that throughout the</p> <p>4 entire time she's been in bankruptcy and you have</p> <p>5 serviced the loan, right?</p> <p>6 A. Yes.</p> <p>7 Q. She's always communicated that she was living</p> <p>8 in the home and wanted to keep the home, right?</p> <p>9 A. I know we have had those communications with</p> <p>10 her, yes.</p> <p>11 Q. Sure. And you've never had a communication</p> <p>12 indicating that the home was abandoned, have you?</p> <p>13 A. No.</p> <p>14 Q. And none of your inspections at any time have</p> <p>15 ever indicated that the home was in disrepair or</p> <p>16 otherwise being wasted; is that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Nothing in any court filing that Ms. Hudson's</p> <p>19 ever made indicated that she wanted to abandon or</p> <p>20 surrender her home or that it wasn't being taken care</p> <p>21 of, right?</p> <p>22 A. No, I haven't seen such documents.</p> <p>23 Q. Nothing in her bankruptcy plan claimed that</p> <p>24 she didn't have a mortgage or you didn't have a right to</p> <p>25 payment, did it?</p>
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<p>1 earlier; if the client says -- or the borrower says,</p> <p>2 "Hey, you don't have a lien because I filed bankruptcy,"</p> <p>3 right? Is that fair?</p> <p>4 A. Yes.</p> <p>5 Q. The next sentence deals with a definition of</p> <p>6 securing the property, right?</p> <p>7 A. Yes.</p> <p>8 Q. None of those things apply to Ms. Hudson, do</p> <p>9 they?</p> <p>10 MS. BEARDSLEY: Object to the form.</p> <p>11 Q. (BY MR. WOOTEN) With respect to the sentence</p> <p>12 that says, "Securing the property includes but is not</p> <p>13 limited to" -- what's the rest of that sentence right</p> <p>14 there?</p> <p>15 A. "...entering the property to make repairs,</p> <p>16 change locks, replace or board up doors and windows,</p> <p>17 drain water from pipes, eliminate building or other code</p> <p>18 violations or dangerous conditions, and have utilities</p> <p>19 turned on or off."</p> <p>20 Q. None of those things apply to Ms. Hudson, do</p> <p>21 they?</p> <p>22 A. What do you mean, do they apply to her? In</p> <p>23 what regard?</p> <p>24 Q. In the present case. I mean, she hasn't</p> <p>25 abandoned her home. You haven't had to enter it, lock</p>	<p>1 A. No.</p> <p>2 Q. The next paragraph of that section says that</p> <p>3 "Any amounts disbursed by lender under this Section 9</p> <p>4 shall become additional debt of borrower secured by this</p> <p>5 security instrument. These amounts shall bear interest</p> <p>6 at the note rate from the date of disbursement and shall</p> <p>7 be payable, with such interest, upon notice from lender</p> <p>8 to borrower requesting payment," right?</p> <p>9 A. Yes.</p> <p>10 Q. Is there anything in that paragraph that says</p> <p>11 the right to payment of those amounts takes priority</p> <p>12 over the payment covenant contained in paragraph 2 of</p> <p>13 this mortgage?</p> <p>14 A. No.</p> <p>15 Q. And, in fact, that paragraph says that you are</p> <p>16 protected if the borrower doesn't pay because you now</p> <p>17 get to charge interest on those amounts and it becomes</p> <p>18 part of the indebtedness, right?</p> <p>19 A. Yes.</p> <p>20 Q. Are you familiar with the term called</p> <p>21 capitalization?</p> <p>22 A. Yes.</p> <p>23 Q. What does that mean?</p> <p>24 A. That means that a payment or a debt be either</p> <p>25 deferred or it could be added to an existing balance.</p>

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<p>1 Q. So in the event that Ms. Hudson weren't able 2 to pay an amount under Section 9, you have a right to 3 add that to her balance and assess interest to it, 4 right? 5 A. Yes. 6 Q. In the documents that you presented in this 7 case, have you capitalized any of those amounts or are 8 you seeking that that be paid rather than be 9 capitalized? 10 A. Repeat that again. 11 Q. Have you capitalized any amount that you have 12 paid as a result of Ms. Hudson's default to the 13 principal of her loan? 14 A. Any of the amounts -- you're -- 15 Q. Any amount that you have incurred as a result 16 of her default, have you capitalized any of those 17 amounts? 18 A. That is possible there has been a 19 capitalization of the loan prior to. The exact nature 20 of that I don't know off the top of my head. 21 Q. That deals with a prior loan modification 22 entered into by Ms. Hudson, right? 23 A. Yes. 24 Q. I'm talking about with respect to this 25 litigation and the amounts that you claim are due.</p>	<p>1 Q. Right. It is the basis of the default by 2 which you seek to foreclose, right? 3 MS. BEARDSLEY: Object to the form. What 4 is the basis? 5 Q. (BY MR. WOOTEN) The delinquency, the amount 6 of arrears. 7 A. Okay. Start over. I'm sorry. You lost me. 8 You said the basis for the default was -- 9 Q. I said the basis of the attempt to foreclose 10 and have relief from stay entered is at least in part 11 amounts that you claim are due as a result of her 12 default, correct? 13 A. Post-petition? Yes. 14 Q. And prepetition, right? 15 A. The motion for relief is post-petition. 16 Q. Okay. But you had a prepetition amount due 17 also, right? 18 A. Yes, she did. 19 Q. And, again, those amounts are the basis of why 20 you sought relief and seek to foreclose, right? 21 MS. BEARDSLEY: Object to the form. The 22 post-petition default is the basis for the motion for 23 relief from stay. 24 MR. WOOTEN: Okay. 25 MS. BEARDSLEY: I just don't want to -- I</p>
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<p>1 You've made a demand for payment and she's been unable 2 to pay. Have you exercised your right to capitalize any 3 of the amounts under this loan? 4 A. I don't know exactly what that means by if 5 we've exercised our right. 6 Q. Well, it says right here that they shall bear 7 interest at the note rate from the date of disbursement 8 and shall be payable with such interest upon notice from 9 lender to borrower requesting payment. And the sentence 10 before that says that any amount disbursed under this 11 paragraph shall become additional debt of the borrower, 12 right? 13 A. Yes. 14 Q. So it is, in effect, added to whatever her 15 principal balance is, correct? 16 A. Yes. 17 Q. And so you could demand payment now or you 18 could add it to the principal balance and increase what 19 she owes, right? 20 A. Yes. 21 Q. And my question is: Have you added it to the 22 principal balance to increase the amount that she owes 23 you? 24 A. It has not been added to the principal 25 balance.</p>	<p>1 don't want us to mix the post and prepetition debt, 2 because that's -- 3 MR. WOOTEN: Sure. That's fair. 4 MS. BEARDSLEY: -- you know that's 5 important. 6 MR. WOOTEN: And that's fair. Let's be 7 clear. 8 Q. (BY MR. WOOTEN) You filed a motion for 9 relief, that we've already talked about, with a note 10 that doesn't show that this trust owns this loan, right? 11 MS. BEARDSLEY: Object to the form. 12 Q. (BY MR. WOOTEN) I mean, we talked about that. 13 No allonges to the note in your motion for relief, 14 right? 15 A. No, there was not. 16 Q. No endorsements, right? 17 A. No, there wasn't. 18 Q. Nothing in your motion for relief indicating 19 that this trust had any specific endorsement of this 20 note or an allonge even, just a separate sheet of paper, 21 saying that this trust obtained ownership of this note, 22 right? 23 A. Right. 24 Q. And we talked about the fact that the mortgage 25 that you've attached -- that there is a discrepancy</p>



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<p>1 between the mortgage legal description and the deed 2 legal description, right? 3 A. Yes. 4 Q. Which affects your lien, right? 5 A. Yes. 6 Q. Which affects your entitlement to foreclose. 7 A. Yes. 8 Q. And it affects your status as a secured 9 creditor in bankruptcy. 10 A. Yes, it does. 11 Q. None of this has ever been disclosed to the 12 Bankruptcy Court, has it? 13 A. I have not seen any documentation of such. 14 Q. And the letter from the Sirote firm to you was 15 prior to November 6, 2007, correct? 16 A. Yes. 17 Q. So on that day, Ms. Kennebeck filed an 18 affidavit under oath in front of our Bankruptcy Judge 19 saying that you were entitled to relief from stay when 20 your company knew that it did not have an enforceable 21 lien at that time, right? 22 MS. BEARDSLEY: I'm going to object to 23 the form. 24 You know, the letter from Colleen is 25 privileged, which we -- me and you can talk about that</p>	<p>1 A. It currently is lead bankruptcy specialist. 2 Q. Was it that same title on November 6 of 2007? 3 A. I don't know. 4 Q. And on that date, you said to our Bankruptcy 5 Court and our Judge that you had the right to foreclose 6 when you knew or your company knew that there was an 7 issue with the lien. 8 MS. BEARDSLEY: I'm going to object to 9 the form. 10 Q. (BY MR. WOOTEN) That's okay. You can answer 11 it. 12 A. Yes. An affidavit was signed, yes. 13 Q. Prior to today, has anyone from Litton or any 14 of your attorneys ever said to the Bankruptcy Court that 15 there was an issue in an attempt to correct this filing? 16 A. Not to my knowledge. 17 Q. Is it your intention to file a document 18 correcting this filing? 19 MS. BEARDSLEY: I mean, I'm going to 20 object. That's not a decision that she would be making. 21 That would be a legal decision. So she's not going to 22 be able to answer the question. 23 Q. (BY MR. WOOTEN) You don't know? 24 A. (Witness shakes head.) No. 25 Q. When you take a mortgage loan pool for</p>
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<p>1 at a different time. But the representations in that 2 letter are not entirely what drives the motion for 3 relief from stay, that period of time between those two. 4 MR. WOOTEN: And I'm not saying that it 5 is, Robin. 6 MS. BEARDSLEY: Yes. Well -- 7 MR. WOOTEN: My point is this: Someone 8 chose to disclose that letter. I don't know who. It's 9 got your Bates stamp. 10 MS. BEARDSLEY: It's probably my -- I 11 mean, I'm the one who did the disclosures. 12 MR. WOOTEN: Sure. 13 MS. BEARDSLEY: So it was probably just a 14 mistake or oversight on my part, which will likely be 15 corrected here pretty soon. 16 Q. (BY MR. WOOTEN) But irrespective, your 17 company had knowledge that there was a problem, right? 18 A. Yeah, someone did. 19 Q. And your company filed an affidavit, sworn 20 testimony under oath, because we try to do things in 21 bankruptcy in an expedited fashion, right? 22 A. Yes. 23 Q. And you have a lady who you've said is Bertha 24 Castillo who notarized the signature. You said her job 25 title was what?</p>	<p>1 servicing, is it fair to say that you receive a batch of 2 electronic documents or a tape or something of that 3 nature which sets forth what loans are allegedly 4 included in that pool? 5 A. Yes. 6 Q. Is it your understanding that the actual 7 documents which underlay these transactions which 8 purport to transfer ownership typically rest either with 9 the trustee or the custodian of the trust? 10 A. The originals? 11 Q. Right. Is that correct? 12 A. Yes. 13 Q. And is it also a fair statement that 14 irrespective of the fact that you receive an e-mail 15 saying that the particular loan is in a particular 16 trust, that question is determined by whether or not 17 those documents are actually legally transferred into 18 that trust? 19 A. Are you asking? 20 Q. Yes, ma'am. 21 A. Repeat it. 22 Q. Sure. An electronic tape or a spreadsheet 23 saying to Litton that that particular loan is in a 24 particular trust does not prove that that particular 25 loan was purchased by that particular trust, does it?</p>

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<p>1 A. No.</p> <p>2 Q. That would depend on the actual transfers of</p> <p>3 that particular loan according to various purchase and</p> <p>4 sale agreements, right?</p> <p>5 A. Right.</p> <p>6 Q. And you would have no idea whether or not that</p> <p>7 occurred when you get that electronic tape, right?</p> <p>8 A. No.</p> <p>9 Q. So if you discover that there is a problem</p> <p>10 somewhere down the road, at that point is when your</p> <p>11 company would try to find out if there were other</p> <p>12 documents or if there was a cure or if there were a</p> <p>13 problem that could be fixed, right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And with respect to that, we talked</p> <p>16 about earlier that if the trust agreement says that if</p> <p>17 there is a problem, the trustee and the servicer have a</p> <p>18 right to demand the seller repurchase the loan, that's</p> <p>19 one way to divest yourself of that problem, right?</p> <p>20 A. Right.</p> <p>21 Q. And you previously testified that your</p> <p>22 activities in this loan with respect to this loan</p> <p>23 account was based upon Deutsche Bank's representation to</p> <p>24 you that they are the owner of this particular mortgage</p> <p>25 loan, right?</p>	<p>1 MS. BEARDSLEY: It's close.</p> <p>2 MR. WOOTEN: The important parts won't</p> <p>3 change.</p> <p>4 Q. (BY MR. WOOTEN) I'm going to hand you what's</p> <p>5 been marked previously as 17. I'm going to hand you</p> <p>6 this page, which on my document says that is the 7th</p> <p>7 page of 304.</p> <p>8 MR. WOOTEN: I think the reason I had</p> <p>9 313, Robin, has to do with some of the preliminary</p> <p>10 pages.</p> <p>11 MS. BEARDSLEY: Did you say 7?</p> <p>12 MR. WOOTEN: It says 7 of 304, and it</p> <p>13 begins with the preliminary statement. Do you see where</p> <p>14 we're at?</p> <p>15 MS. BEARDSLEY: Yes.</p> <p>16 Q. (BY MR. WOOTEN) If you will read into the</p> <p>17 record what the preliminary statement says.</p> <p>18 A. "The depositor intends to sell pass-through</p> <p>19 certificates (collectively, the 'certificates'), to be</p> <p>20 issued hereunder in multiple classes, which in the</p> <p>21 aggregate will evidence the entire beneficial ownership</p> <p>22 interest in the trust fund created hereunder."</p> <p>23 Q. Does it identify those parties?</p> <p>24 A. Yes. It identifies 12 classes of</p> <p>25 certificates.</p>
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<p>1 A. Right.</p> <p>2 Q. Have you ever seen the filings with the</p> <p>3 Securities and Exchange Commission dealing with the</p> <p>4 trust that is alleged to own this loan?</p> <p>5 A. Yes, I've seen it.</p> <p>6 Q. Is that something that you looked at after I</p> <p>7 produced the information to your attorneys?</p> <p>8 A. Yes.</p> <p>9 Q. I'm going to mark this cumulative exhibit, and</p> <p>10 I'll go ahead and tell you that it's 313 pages. And I</p> <p>11 promise you we won't read every one of them.</p> <p>12 (Plaintiff's Exhibit No. 17</p> <p>13 marked for identification.)</p> <p>14 Q. (BY MR. WOOTEN) And because it's so long, I'm</p> <p>15 going to make a stack in the middle of the table and go</p> <p>16 through the important parts.</p> <p>17 MS. BEARDSLEY: I printed what you sent</p> <p>18 me, and mine is 308 pages. So what I'm handing her is</p> <p>19 technically different than what you had.</p> <p>20 MR. WOOTEN: If there is a difference, it</p> <p>21 probably has to do with the exhibits.</p> <p>22 MS. BEARDSLEY: Okay.</p> <p>23 MR. WOOTEN: And so I'll -- we'll</p> <p>24 compare, and if there's a discrepancy, we'll go by</p> <p>25 yours.</p>	<p>1 Q. And the preliminary statement -- I'm sorry.</p> <p>2 The very top part in orange, is that what you read?</p> <p>3 A. No.</p> <p>4 Q. Read the top part in orange if you don't mind.</p> <p>5 A. "This pooling and services agreement is dated</p> <p>6 as of November 1, 2003, (the 'agreement'), among</p> <p>7 Financial Asset Securities Corp., as depositor (the</p> <p>8 'depositor'), Litton Loan Servicing LP, as servicer (the</p> <p>9 'servicer'), and Deutsche Bank National Trust Company,</p> <p>10 as trustee (the 'trustee')."</p> <p>11 Q. All those parties line up with what we've been</p> <p>12 talking about today? I mean, you're serving as the</p> <p>13 servicer.</p> <p>14 A. Yeah.</p> <p>15 Q. Deutsche Bank is the trustee. The party I</p> <p>16 think that we're missing is Financial Asset Securities</p> <p>17 Corporation. Does that sound right?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know what role Financial Asset</p> <p>20 Securities Corporation would play in this</p> <p>21 securitization?</p> <p>22 A. No, I don't.</p> <p>23 Q. Other than the definition set forth there,</p> <p>24 which is depositor, right?</p> <p>25 A. Yeah. No, I don't.</p>

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43 (Pages 169 to 172)

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<p>1 Q. Okay.</p> <p>2 (Plaintiff's Exhibit No. 18</p> <p>3 marked for identification.)</p> <p>4 Q. (BY MR. WOOTEN) I'm going to show you what</p> <p>5 I've marked as Plaintiff's Exhibit 18. And I'll</p> <p>6 represent to you that it is a copy of an Amended and</p> <p>7 Restated Certificate of Corporation for Financial Asset</p> <p>8 Securities Corporation, okay?</p> <p>9 Does that indicate that Financial Asset</p> <p>10 Securities Corporation has some affiliation with a</p> <p>11 company, either Greenwich Capital Holdings or Greenwich</p> <p>12 Capital Financial Markets?</p> <p>13 A. Restate your question.</p> <p>14 Q. Does that indicate that Financial Asset</p> <p>15 Securities Corporation is affiliated with a company</p> <p>16 called Greenwich Capital Holdings or Greenwich Capital</p> <p>17 Markets or Greenwich Capital Financial Products?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Does that explain the relationship?</p> <p>20 A. It don't to me.</p> <p>21 Q. Okay. I'm going to mark this document as</p> <p>22 17-A.</p> <p>23 (Plaintiff's Exhibit No. 17-A</p> <p>24 marked for identification.)</p> <p>25 Q. (BY MR. WOOTEN) And I'll explain why I'm</p>	<p>1 two entities?</p> <p>2 A. Yes.</p> <p>3 Q. All right. And if you'll hand that document</p> <p>4 back to me for a second.</p> <p>5 MR. WOOTEN: Once again, you'd think you</p> <p>6 spend four days looking at something, you'd get all the</p> <p>7 copies you need, but I had problems with that. Let me</p> <p>8 do this, because this is becoming too much trouble. I</p> <p>9 stapled it because I'm left-handed, and it messes</p> <p>10 everybody up. I'm going to restaple this on the other</p> <p>11 side so it flows correctly.</p> <p>12 If you don't mind, I'll walk over here.</p> <p>13 I don't have but one copy, and I don't want y'all to</p> <p>14 strain ourselves.</p> <p>15 Q. (BY MR. WOOTEN) This is the first page of</p> <p>16 that Mortgage Loan Purchase Agreement. Is it dated</p> <p>17 November 12, 2003?</p> <p>18 A. Yes.</p> <p>19 Q. Is that the same date as the Pooling and</p> <p>20 Servicing Agreement?</p> <p>21 A. Yes.</p> <p>22 Q. Actually, the Pooling and Servicing Agreement</p> <p>23 is November 1st, right?</p> <p>24 A. Yeah. I'm sorry.</p> <p>25 Q. I'm sorry. I was wrong about that too.</p>
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<p>1 marking it as that. This is a portion of document 17.</p> <p>2 It's called Exhibit C, and it says that it is the form</p> <p>3 of the Mortgage Loan Purchase Agreement, all right? And</p> <p>4 it says Greenwich Capital Financial Products, as seller,</p> <p>5 and Financial Asset Securities Corporation, as</p> <p>6 purchaser, and it is a Mortgage Loan Purchase Agreement</p> <p>7 dated November 12th, 2003, okay?</p> <p>8 And I'll let you look at that and see if</p> <p>9 you agree.</p> <p>10 That's probably going to be in the first</p> <p>11 page. I think you're on the second page.</p> <p>12 MS. BEARDSLEY: And I think it's</p> <p>13 backwards.</p> <p>14 Q. (BY MR. WOOTEN) I stapled it on the wrong</p> <p>15 side. Did I mess you up?</p> <p>16 MS. BEARDSLEY: It's on the other side,</p> <p>17 Robin. I apologize.</p> <p>18 Q. (BY MR. WOOTEN) Do you see that is page 265</p> <p>19 and that is page 266? I'm sorry. I was printing front</p> <p>20 and back.</p> <p>21 And that's the information I was</p> <p>22 referring to, okay?</p> <p>23 A. Okay.</p> <p>24 Q. And does that document also indicate that it's</p> <p>25 a purchase agreement for the sale of loans between those</p>	<p>1 And it says that the -- it says here in</p> <p>2 17-A that the seller, who is Greenwich, is the owner of</p> <p>3 the notes or other evidence of indebtedness so indicated</p> <p>4 on Schedule I hereto, all right?</p> <p>5 A. Okay.</p> <p>6 Q. And it says -- it also says, "The other</p> <p>7 documents or instruments constituting the mortgage file</p> <p>8 (collectively, the 'mortgage loans')"; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And it says that as of November 12th,</p> <p>11 Greenwich -- it says, "As of the date hereof, owns the</p> <p>12 mortgages on the properties securing such mortgage</p> <p>13 loans"; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And this says that the parties desire that</p> <p>16 Greenwich, the seller, sell the mortgage loans to</p> <p>17 Financial Assets Securities Corporation, right?</p> <p>18 A. Right.</p> <p>19 Q. And it says that this is pursuant to the terms</p> <p>20 of a Pooling and Servicing Agreement dated November 1st,</p> <p>21 2003, right?</p> <p>22 A. Yes.</p> <p>23 Q. And that concurs with the document that we've</p> <p>24 shown as page 12 of 313 at the top of this document,</p> <p>25 right?</p>

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<p>1 A. Yes.</p> <p>2 Q. And it also says that Financial Asset</p> <p>3 Securities Corporation will be the purchaser, Litton</p> <p>4 will be the servicer, Deutsche Bank will be the trust</p> <p>5 company, right?</p> <p>6 A. Yes.</p> <p>7 Q. And it says that the purchaser, which is -- I</p> <p>8 think they abbreviate it as FASCO -- Financial Asset</p> <p>9 Securities Corporation will convey the mortgage loans to</p> <p>10 Finance America Mortgage Loan Trust 2003-1; is that</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. So that indicates that on November 12th,</p> <p>14 Greenwich owned all those loans and sold them to FASCO,</p> <p>15 right?</p> <p>16 A. Yes.</p> <p>17 Q. Or all the loans that made up this trust,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. And then it says under definitions that "All</p> <p>21 capitalized terms used but not defined have the same</p> <p>22 meaning assigned in the Pooling and Servicing</p> <p>23 Agreement," right?</p> <p>24 A. Yes.</p> <p>25 Q. The next page deals with the actual sale and</p>	<p>1 part of Exhibit D to the Pooling and Servicing</p> <p>2 Agreement, shall also be marked as Schedule I to this</p> <p>3 agreement and is hereby incorporated into and made a</p> <p>4 part of this agreement," right?</p> <p>5 A. Yes.</p> <p>6 Q. And it says in connection with this</p> <p>7 conveyance, the seller, which is Greenwich, on behalf of</p> <p>8 the purchaser, will deliver to and deposit with Deutsche</p> <p>9 Bank, the trustee, documents or instruments with respect</p> <p>10 to each mortgage loan, right?</p> <p>11 A. Yes.</p> <p>12 Q. And it says that they will deliver the</p> <p>13 original mortgage note with all riders thereto, endorsed</p> <p>14 either -- what does that say?</p> <p>15 A. "In blank."</p> <p>16 Q. And it also says that if it is in blank, that</p> <p>17 the trustee will do what?</p> <p>18 A. "Shall cause the endorsement to be completed."</p> <p>19 Q. And then it says what the form is, right?</p> <p>20 A. Right.</p> <p>21 Q. And what is the form?</p> <p>22 A. "Pay to the order of Deutsche Bank National</p> <p>23 Trust Company, as trustee, without recourse."</p> <p>24 Q. Right. In any of the documents that you have</p> <p>25 or that you have produced with respect to this loan is</p>
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<p>1 it's Section 2.01 and it says, "The seller" -- which was</p> <p>2 Greenwich, right?</p> <p>3 A. Yes.</p> <p>4 Q. -- "does hereby sell, assign, set over, and</p> <p>5 convey to the purchaser," which was FASCO, "without</p> <p>6 recourse," and then it lists "all of its right, title,</p> <p>7 and interest in and to each mortgage loan, including the</p> <p>8 related cut-off date principal balance, all interest</p> <p>9 accruing, and all collections in respect of interest and</p> <p>10 principal," right?</p> <p>11 A. Yes.</p> <p>12 Q. And then the next section says that in</p> <p>13 connection with the transfer pursuant to this, that</p> <p>14 Greenwich at its own expense on or prior to the closing</p> <p>15 date -- "to cause its books and records to indicate that</p> <p>16 mortgage loans have been sold to the purchaser," which</p> <p>17 is FASCO, "pursuant to this agreement," right?</p> <p>18 A. Yes.</p> <p>19 Q. And to deliver to FASCO and the trustee a</p> <p>20 computer file containing a true and complete list of all</p> <p>21 such mortgage loans specifying for each such mortgage</p> <p>22 loan, as of the cut-off date, its account number and its</p> <p>23 principal balance, right?</p> <p>24 A. Yes.</p> <p>25 Q. And it says that "Such file, which forms a</p>	<p>1 there any endorsement or any allonge that says "Pay to</p> <p>2 the order of Deutsche Bank National Trust Company, as</p> <p>3 trustee, without recourse"?</p> <p>4 A. No.</p> <p>5 Q. The next section is Section (ii), right?</p> <p>6 A. Right.</p> <p>7 Q. And it says, "The original mortgage, with all</p> <p>8 riders thereto, noting the presence of the MIN," which</p> <p>9 is the number assigned by MERS, right?</p> <p>10 A. Right.</p> <p>11 Q. -- "of the mortgage loan and language</p> <p>12 indicating that the mortgage loan is a MOM loan" -- what</p> <p>13 is a MOM loan for those not familiar with the parlance?</p> <p>14 A. MERS originated mortgage.</p> <p>15 Q. Right.</p> <p>16 And "...if the mortgage loan is a MOM</p> <p>17 loan, with evidence of recording thereon," right?</p> <p>18 A. Right.</p> <p>19 Q. And then it says, "Unless the mortgage loan is</p> <p>20 registered on the MERS system, an original assignment,</p> <p>21 in form and substance acceptable for recording,</p> <p>22 assigning the related mortgage loan either in blank or</p> <p>23 to Deutsche Bank National Trust Company, as trustee,</p> <p>24 without recourse," right?</p> <p>25 A. Yes.</p>

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<p>1 Q. Is there a mortgage assignment to Deutsche 2 Bank National Trust Company, as trustee, without 3 recourse? 4 MS. BEARDSLEY: Object to the form. 5 Well, it says "in blank or." 6 A. What was your question? 7 Q. (BY MR. WOOTEN) The mortgage assignment -- it 8 says in blank, and we've already talked about all the 9 mortgage assignments, remember? 10 A. No. 11 Q. All right. But then (B) it says, "...either 12 in blank or to Deutsche Bank National Trust Company, as 13 trustee, without recourse," right? 14 A. Uh-huh. 15 Q. And then it says that "...an original copy of 16 any intervening assignment of mortgage showing a 17 complete chain of assignments to the trustee," right? 18 A. Correct. 19 Q. Is there an assignment to Greenwich? 20 A. No. 21 Q. Is there an assignment to FASCO? 22 A. No. 23 Q. Is there an assignment from FASCO to the 24 trust? 25 A. What was FASCO?</p>	<p>1 A. Yes. 2 Q. -- "and if the seller does not cure or deliver 3 such missing document within such time period, the 4 seller shall either repurchase or substitute for that 5 mortgage loan"; is that right? 6 A. Yes. 7 Q. And it says that the mortgage loan, if there's 8 a substitution, will be made pursuant to the Pooling and 9 Servicing Agreement, okay? 10 A. (Witness nods head.) 11 Q. And then it says that "The seller" -- which is 12 Greenwich -- "shall cause the assignments which were 13 delivered in blank to be completed and, except with 14 respect to any mortgage loan for which MERS is 15 identified on the mortgage or on a properly recorded 16 assignment of the mortgage as the mortgagee of record, 17 shall cause all assignments referred to in Section 2.02 18 to the extent necessary in Section 2.02(iv) to be 19 recorded"; is that right? 20 A. Yes. 21 Q. And in this file, there is a recorded 22 assignment from the original lender out of Florida, 23 right, to Finance America? Do you remember that? 24 We can look back at it. I think you may 25 actually have those in the last couple of pages. Look</p>
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<p>1 Q. FASCO was the depositor, Financial -- they 2 were the purchaser under this agreement -- 3 A. No. 4 Q. -- Financial Asset Securities Corporation. 5 A. No, there wasn't. 6 Q. Okay. This goes on to say that the seller 7 confirms to the purchaser, which is FASCO, and the 8 trustee, which is Deutsche Bank, that it has caused the 9 appropriate entries to be made in its general accounting 10 records to indicate that such mortgage loans have been 11 transferred to the trustee and constitute part of the 12 trust; is that right? 13 A. Yes. 14 Q. Down here at the bottom of that page, which 15 this is page 270 of 313 on the Exhibit 17-A, I've got 16 some of that highlighted too, right? 17 A. Yes. 18 Q. And it says, "Upon discovery or receipt of 19 notice of any materially defective document in, or that 20 a document is missing from, a mortgage file, the 21 seller" -- which is Greenwich, right? 22 A. Yes. 23 Q. -- "shall have 90 days to cure such defect or 24 deliver such missing document to the purchaser" -- which 25 is FASCO, right?</p>	<p>1 at the back of the mortgage. There's going to be some 2 before that. Come on back. Keep coming back this way. 3 This is from -- we talked about this 4 being from Global Lending to Finance America, right? 5 A. Right. 6 Q. And that's recorded 10/24/03. 7 A. Yes. 8 Q. And then we talked about a recording from 9 Finance America to MERS, 10/24/03, right? 10 A. Yes. 11 Q. And that's all in 2003, right? 12 A. Yeah, that's correct. 13 Q. And then the next recording is from MERS, and 14 it says Deutsche Bank National Trust Company as trustee 15 for the holders of Finance America Mortgage Loan Trust 16 2003-1 Asset-Backed Certificates Series 2003-1, right? 17 A. Yes. 18 Q. And it says Finance America, right? 19 A. Right. 20 Q. And that is on June 21st of 2007, right? 21 A. Yes. 22 Q. Okay. This document indicates that in 2003 23 that Greenwich Capital Markets was the owner of this 24 loan, right? 25 A. Yes.</p>

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<p>1 Q. And that they then sold it to FASCO in 2003, 2 right? 3 A. Yes. 4 Q. And then Deutsche Bank became the owner 5 according to the loans that were sold to this, right? 6 A. Correct. 7 Q. So is there any way that Finance America could 8 assign a note that they didn't own in 2007 that you are 9 aware of? 10 MS. BEARDSLEY: Object to the form. 11 A. No. 12 Q. (BY MR. WOOTEN) I'm sorry. I'll pull up a 13 chair if you want me to. 14 This section dealing with -- let me make 15 sure I didn't skip something. 16 It says here that in the event -- in this 17 paragraph, it says, "In connection with the assignment 18 of any mortgage loan registered on the MERS system" -- 19 which this one was, right? 20 A. Yes. 21 Q. It says that Greenwich further agrees that it 22 will cause, within 30 business days after the closing 23 date, the MERS system to indicate that such mortgage 24 loans have been assigned to FASCO to Deutsche Bank, 25 right?</p>	<p>1 the order of Deutsche Bank National Trust Company as 2 Trustee, without recourse," right? 3 A. Right. 4 Q. And we talked about the fact that that 5 endorsement is not present anywhere. 6 A. Yes, we did. 7 Q. And then, again, it talks about the fact that 8 if anything is missing -- and it says specifically in 9 this paragraph, "Notwithstanding the foregoing, with 10 respect to any materially defective document in, or any 11 document missing from, a mortgage file, if the 12 seller" -- which is Greenwich, right? 13 A. (Witness nods head.) 14 Q. -- "would not be in breach of any obligation 15 pursuant to this Section 2.01 but for a breach by 16 Finance America," right? 17 A. Yes. 18 Q. -- "pursuant to the Master Mortgage Loan 19 Purchase Agreement and Interim Servicing Agreement dated 20 June 1st, 2003, between Greenwich and Finance America," 21 right? 22 A. Right. 23 Q. -- "of an obligation of the originator" -- who 24 is Finance America, right? 25 A. Right.</p>
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<p>1 A. Yes. 2 Q. The assignments in this case are from Finance 3 America to Deutsche Bank, right? 4 A. Right. 5 Q. And then it says, "In accordance with the 6 Pooling and Servicing Agreement for the benefit of the 7 certificate holders by including in such computer files 8 the code in the field which identifies the trustee." 9 You have that, right? 10 A. No. 11 Q. It tells you from this document that's No. 14 12 your investor code, the acquisition date, and the 13 investor loan number, right? 14 A. Right. 15 Q. And then it says, "The code in the field pool 16 field which identifies the series of the certificates 17 issued in connection with the mortgage loan," right? 18 So two things would go to MERS. One is 19 identification of the trustee, and two is the pool 20 field. 21 And then it says, "In the event that a 22 mortgage note is endorsed in blank as of the closing 23 date, promptly following the closing date, the trustee, 24 at the expense of the seller" -- which is Greenwich -- 25 "shall cause to be completed such endorsements 'Pay to</p>	<p>1 Q. -- "then the originator thereunder, in the 2 manner and to the extent set forth therein, and not the 3 seller" -- which is Greenwich -- "shall be required to 4 remedy the breach," right? 5 A. Right. 6 Q. And then it says in pink that "The 7 purchaser" -- who is FASCO -- "acknowledges its 8 acceptance of all right, title, and interest to the 9 mortgage loans and other property, now existing and 10 hereafter created, conveyed to it pursuant to 11 Section 2.01," right? 12 A. Right. 13 Q. And then it says here that the parties intend 14 that the transaction be a sale by Greenwich to FASCO of 15 all Greenwich's right to the mortgage loans in the 16 property described herein, right? 17 A. Right. 18 Q. And it says that Greenwich grants to FASCO a 19 security interest in all of Greenwich's right, title, 20 and interest to the mortgage loans, right? 21 A. Yes. 22 Q. And then it says under 3.01 that Greenwich and 23 FASCO understand, acknowledge, and agree that the 24 representations and warranties set forth in this section 25 are made as of the closing date or as of the date</p>

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<p>1 specifically provided herein, right?</p> <p>2 A. Right.</p> <p>3 Q. And it says, "Pursuant to Section 24 of the</p> <p>4 master agreement, Greenwich assigns to FASCO all of its</p> <p>5 right, title, and interest under the master agreement to</p> <p>6 the extent of the mortgage loans set forth on the</p> <p>7 mortgage loan schedule, including, but not limited to,</p> <p>8 any representations and warranties of the originator,"</p> <p>9 who is Finance America --</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. -- "concerning the mortgage loans. In</p> <p>12 addition, Greenwich represents and warrants with respect</p> <p>13 to the mortgage loans to FASCO that as of the closing</p> <p>14 date or as of such date specifically provided for</p> <p>15 herein," the following -- and it talks about A, B, and</p> <p>16 C, and those are some conditions dealing with predatory</p> <p>17 lending laws, right?</p> <p>18 MS. BEARDSLEY: She hasn't had a chance</p> <p>19 to read that, so she can't --</p> <p>20 MR. WOOTEN: Sure.</p> <p>21 Q. (BY MR. WOOTEN) But here on the next page, it</p> <p>22 says, "The seller" -- which is Greenwich -- "has the</p> <p>23 full power and authority to hold each mortgage loan, to</p> <p>24 sell each mortgage loan, to execute, deliver and</p> <p>25 perform, and to enter into and consummate, all</p>	<p>1 don't know if -- I mean, you're not really asking her a</p> <p>2 question. You're just reading on the record.</p> <p>3 MR. WOOTEN: I'm just asking her if this</p> <p>4 is what the documents say.</p> <p>5 MS. BEARDSLEY: If you read it correctly?</p> <p>6 MR. WOOTEN: Yeah. If that's what the</p> <p>7 document says.</p> <p>8 MS. BEARDSLEY: Okay.</p> <p>9 MR. WOOTEN: Okay?</p> <p>10 MS. BEARDSLEY: Okay. We'll stipulate</p> <p>11 that the document says what it says. I mean, she can't</p> <p>12 verify anything that it says in the document. If you</p> <p>13 just want to sit here and read for us on the record,</p> <p>14 though --</p> <p>15 Q. (BY MR. WOOTEN) And then it says -- I'm going</p> <p>16 to skip to this right here, because this deals with</p> <p>17 repurchase agreements again. And it says --</p> <p>18 MS. BEARDSLEY: Nick, I'm sorry. I have</p> <p>19 to object to you skipping between different paragraphs.</p> <p>20 You can't read things like that --</p> <p>21 MR. WOOTEN: Sure. And I'll identify</p> <p>22 what I'm --</p> <p>23 MS. BEARDSLEY: -- out of context.</p> <p>24 MR. WOOTEN: I'll identify what I'm</p> <p>25 reading from.</p>
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<p>1 transactions contemplated by this agreement," right?</p> <p>2 A. Yes.</p> <p>3 Q. And it says, "Immediately prior to the payment</p> <p>4 of the purchase price for each mortgage loan, the</p> <p>5 seller" -- which is Greenwich -- "was the owner of the</p> <p>6 related mortgage and the indebtedness evidenced by the</p> <p>7 related mortgage note and upon the payment of the</p> <p>8 purchase price by the purchaser" -- which is FASCO --</p> <p>9 "in the event that the seller retains record title, the</p> <p>10 seller shall retain such record title to each mortgage,</p> <p>11 each related mortgage note, and the related mortgage</p> <p>12 files with respect thereto in trust for the purchaser as</p> <p>13 the owner thereof," right?</p> <p>14 MS. BEARDSLEY: And that's what it says.</p> <p>15 I mean, I don't have any dispute with you reading what</p> <p>16 it says in there, but I do have to object to the fact</p> <p>17 that you're skipping different paragraphs. I mean, you</p> <p>18 and I both know that reading a contract like that, you</p> <p>19 can't --</p> <p>20 MR. WOOTEN: Sure.</p> <p>21 MS. BEARDSLEY: -- skip paragraphs around</p> <p>22 and expect it to make sense.</p> <p>23 MR. WOOTEN: You're welcome to</p> <p>24 cross-examine her about any of that.</p> <p>25 MS. BEARDSLEY: But I'm just saying I</p>	<p>1 MS. BEARDSLEY: But you're not actually</p> <p>2 asking a question. We're just reading piecemeal from a</p> <p>3 document that's --</p> <p>4 MR. WOOTEN: Sure. And any time --</p> <p>5 MS. BEARDSLEY: -- unidentifiable on the</p> <p>6 record.</p> <p>7 MR. WOOTEN: Well, we know what we're</p> <p>8 reading from. We're reading from 17-A on the record.</p> <p>9 MS. BEARDSLEY: But you're not reading</p> <p>10 the whole document. You're jumping --</p> <p>11 MR. WOOTEN: Sure. I'm reading the parts</p> <p>12 that are important for my examination. And --</p> <p>13 MS. BEARDSLEY: But you --</p> <p>14 MR. WOOTEN: -- anybody who wants to sit</p> <p>15 and read the whole thing, they can.</p> <p>16 MS. BEARDSLEY: Nick, you're not asking</p> <p>17 questions. You're just reading.</p> <p>18 MR. WOOTEN: I'm asking her if that's</p> <p>19 what the document says.</p> <p>20 MS. BEARDSLEY: Well, I haven't heard you</p> <p>21 say that yet, so -- I mean, you can ask her that right</p> <p>22 now. We don't have to read anything. We don't dispute</p> <p>23 that the document says what it says, but just skipping</p> <p>24 from a sentence to a different page --</p> <p>25 Q. (BY MR. WOOTEN) Under Section 7.03 of this</p>

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<p>1 agreement -- it's on page 275 -- or 278 of 2 Exhibit 17-A -- it indicates that Greenwich Capital 3 Financial Markets and Financial Asset Securities 4 Corporation are both entities located in Greenwich, 5 Connecticut; is that right? 6 MS. BEARDSLEY: Are you asking if that's 7 what it says? 8 Q. (BY MR. WOOTEN) Is that what it says? 9 A. Yes. 10 Q. Okay. And you don't have any independent 11 knowledge of these documents because you haven't seen 12 them before, have you? 13 A. I've seen the document. I haven't read the 14 documents. 15 Q. And does Section 7.07 indicate that these 16 parties intend -- the purchaser intends to purchase and 17 the seller intends to sell these mortgage loans rather 18 than pledging them as part of a -- to secure a loan by 19 the purchaser to the seller? Is that the first portion 20 of the highlighted part of that paragraph? 21 A. Yes. 22 Q. Let me sit back down. 23 Now, I know that took some time and I 24 hated to bore y'all with that, but it's important to the 25 fact that -- the allegation that this trust is the</p>	<p>1 questions? 2 MR. WOOTEN: Sure. And we have to ask 3 those questions that way because it is -- 4 MS. BEARDSLEY: You didn't ask a 5 question. 6 MR. WOOTEN: We have to establish what 7 the contents of the documents are so we can put it in 8 context. 9 MS. BEARDSLEY: The document speaks for 10 itself. 11 MR. WOOTEN: Sure, but I need her to have 12 enough information from the documents to be able -- 13 MS. BEARDSLEY: You didn't give her 14 enough information. Then she needs to sit here and read 15 the whole document. 16 MR. WOOTEN: Okay. Do you want to 17 continue the deposition until she's had time to review 18 it, or do you want to designate someone else to review 19 it? Because the contents of the documents are not going 20 to change, Robin, nor are the contents of the discovery. 21 MS. BEARDSLEY: Right. And I'm just 22 asking if you'll get to a question -- 23 MR. WOOTEN: Sure. 24 MS. BEARDSLEY: -- as opposed to reading 25 the content of the documents.</p>
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<p>1 particular owner of this particular loan. In the 2 context of having seen the Mortgage Loan Purchase 3 Agreement and us having walked through it together, I'm 4 going to ask you a couple of more questions about the 5 actual Pooling and Servicing Agreement. 6 MS. BEARDSLEY: Well, unless you want to 7 give her a chance to sit here and read the whole 8 document, I mean, I'm not going to allow her to answer 9 questions about analyzing what this document says in 10 relation to the Pooling and Servicing Agreement. 11 MR. WOOTEN: It's going to be real 12 similar, Robin, to what we just did. There are portions 13 that are highlighted. And, you know, if she -- if you 14 want to rebut what the documents say, which are filed 15 under oath with the SEC and the IRS -- 16 MS. BEARDSLEY: What I'm telling you 17 is -- 18 MR. WOOTEN: -- your clients are welcome 19 to do that. 20 MS. BEARDSLEY: Nick, what I'm saying is 21 we're not going to dispute that it says what it says, 22 but she -- you're not actually asking questions about 23 the document. 24 MR. WOOTEN: Okay. Well -- 25 MS. BEARDSLEY: So can we get to</p>	<p>1 MR. WOOTEN: And I'm doing my best. 2 MS. BEARDSLEY: Okay. 3 Q. (BY MR. WOOTEN) The actual Pooling and 4 Servicing Agreement -- we talked about -- the document I 5 just went through with you, 17-A, is a portion of that 6 document, okay? And, again, the document's a public 7 record. If anybody wants to contest the contents of it, 8 they can do so. I'm just reading what's filed with the 9 Government under oath, okay? 10 MS. BEARDSLEY: Well, I'll object. 11 You're reading what you selected to read. 12 MR. WOOTEN: Sure. 13 MS. BEARDSLEY: Okay. 14 MR. WOOTEN: And you're welcome to read 15 anything you think contradicts -- 16 MS. BEARDSLEY: I'm not going to read 17 anything. I just want the record to be clear that you 18 did not read the whole document. You're only referring 19 to the portions that you want to refer to. 20 MR. WOOTEN: That's right. 21 MS. BEARDSLEY: Okay. Just so we're 22 clear. 23 MR. WOOTEN: I'm referring to the parts 24 that matter. 25 Q. (BY MR. WOOTEN) There is a section under</p>



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<p>1 page 20, and you can refer to the table of contents in</p> <p>2 Robin's document if you'd like to, that deals with</p> <p>3 definitions of this trust.</p> <p>4 Now, you don't contend or dispute any of</p> <p>5 the definitions that are contained in this trust</p> <p>6 document, do you?</p> <p>7 MS. BEARDSLEY: She's not going to be --</p> <p>8 I mean, she's really not qualified to testify about</p> <p>9 whether or not she disputes them or not. We don't</p> <p>10 dispute that it's a public record.</p> <p>11 MR. WOOTEN: You don't dispute that it's</p> <p>12 filed under oath with the SEC?</p> <p>13 MS. BEARDSLEY: Right. That it is a</p> <p>14 public record. Absolutely.</p> <p>15 MR. WOOTEN: Sure.</p> <p>16 Q. (BY MR. WOOTEN) You don't dispute that your</p> <p>17 company is a party to this agreement?</p> <p>18 A. No.</p> <p>19 Q. Okay. And you don't dispute that this</p> <p>20 agreement is the basis by which your company has been</p> <p>21 acting with respect to Lorraine Hudson's loan, right?</p> <p>22 A. That's correct.</p> <p>23 Q. And so whatever this document says about your</p> <p>24 obligations, rights, duties, whatever, you agree that's</p> <p>25 binding, right?</p>	<p>1 A. No.</p> <p>2 Q. Are you aware of whether or not there exists</p> <p>3 any limitations upon how, when, and by what method a</p> <p>4 trust may acquire an asset?</p> <p>5 A. I do not know.</p> <p>6 Q. Are you aware of what law or what jurisdiction</p> <p>7 governs the creation of this trust?</p> <p>8 A. No.</p> <p>9 Q. If the document says it's New York law, you</p> <p>10 would not dispute that?</p> <p>11 A. No.</p> <p>12 Q. Do you know who in your firm would certify the</p> <p>13 accuracy of these types of documents to the SEC and the</p> <p>14 IRS?</p> <p>15 MS. BEARDSLEY: Object to the form.</p> <p>16 A. I do not know.</p> <p>17 Q. (BY MR. WOOTEN) Is that -- that page</p> <p>18 highlighted in front of you, is that page 11 and 12 in</p> <p>19 the top right corner?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. If you will, let me take a look at</p> <p>22 that. I'll put that back in the stack since I asked you</p> <p>23 what I thought I needed to.</p> <p>24 MR. WOOTEN: Do y'all want to stop and</p> <p>25 take a break? I don't want anybody's eyes to glaze</p>
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<p>1 A. Yes.</p> <p>2 Q. Do you have any idea as to why these</p> <p>3 particular documents are filed with the SEC, made a part</p> <p>4 of the public record?</p> <p>5 A. No, not particularly.</p> <p>6 Q. Are you aware as to whether or not these</p> <p>7 documents exist for the purpose of creating investment</p> <p>8 vehicles in the form of REMIC certificates?</p> <p>9 A. No.</p> <p>10 Q. Do you know what a REMIC is?</p> <p>11 A. Huh-uh.</p> <p>12 MS. BEARDSLEY: Is that a no?</p> <p>13 A. No.</p> <p>14 Q. (BY MR. WOOTEN) You don't know?</p> <p>15 A. No.</p> <p>16 Q. A REMIC is a Real Estate Mortgage Investment</p> <p>17 Conduit, and that is a term defined by the IRS tax code,</p> <p>18 okay?</p> <p>19 A. Okay.</p> <p>20 Q. Are you aware of any of the legal requirements</p> <p>21 for forming a REMIC trust?</p> <p>22 A. No.</p> <p>23 Q. So you would not have an opinion as to whether</p> <p>24 or not the purpose of filing documents such as this</p> <p>25 under oath would be to comply with that law?</p>	<p>1 over. It's 2:30. Do you want to take about 20 minutes?</p> <p>2 Is that okay?</p> <p>3 THE WITNESS: That's fine.</p> <p>4 MR. WOOTEN: Let's do that.</p> <p>5 (Recess taken from 2:28 p.m. to</p> <p>6 2:39 p.m.)</p> <p>7 Q. (BY MR. WOOTEN) Ms. Mosley, we've been here a</p> <p>8 long time today, and I try to be as direct as I can,</p> <p>9 okay? But there's some documents we have to get through</p> <p>10 to finish this up. So bear with me, all right?</p> <p>11 With respect to this particular trust, do</p> <p>12 you have any idea as to the date identified as the</p> <p>13 closing date for this trust?</p> <p>14 A. You mean like off the top of my head?</p> <p>15 Q. Right. Other than me showing you the</p> <p>16 document, do you have any idea?</p> <p>17 A. No.</p> <p>18 Q. Do you have any idea why a closing date is</p> <p>19 relevant to this trust?</p> <p>20 A. No, not particularly.</p> <p>21 Q. I'll show you page 29, which indicates the</p> <p>22 closing date is November 14th, 2003.</p> <p>23 MS. BEARDSLEY: The closing date of the</p> <p>24 Pooling and Servicing Agreement?</p> <p>25 MR. WOOTEN: Which is the trust.</p>

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<p>1 Q. (BY MR. WOOTEN) And I asked you earlier if</p> <p>2 you had any idea as to what the relevance of that</p> <p>3 closing date is or why they designate a date as a</p> <p>4 closing date.</p> <p>5 A. To my -- I know to my knowledge, it -- there</p> <p>6 can't be any loans originated included in the pool that</p> <p>7 were originated after the closing date of a pool.</p> <p>8 Q. Is that based on an inquiry that you made or</p> <p>9 is that just based on your general understanding?</p> <p>10 A. It's just based on my general understanding.</p> <p>11 Q. Makes a lot of sense too, doesn't it, when</p> <p>12 you're opening and closing a trust, that the closing</p> <p>13 date would be kind of the final date, right?</p> <p>14 A. Right.</p> <p>15 MR. WOOTEN: If you will, I'm going to</p> <p>16 put this -- I'm going to try to keep this in order for</p> <p>17 the court reporter, because she's going to have to make</p> <p>18 copies of all this for us.</p> <p>19 MS. BEARDSLEY: Are you marking that as a</p> <p>20 certain exhibit?</p> <p>21 MR. WOOTEN: No. It's -- the whole PSA</p> <p>22 is 17. I pulled out 17-A for the Mortgage Loan Purchase</p> <p>23 Agreement.</p> <p>24 MS. BEARDSLEY: Okay.</p> <p>25 MR. WOOTEN: Right. And the reason being</p>	<p>1 MR. WOOTEN: Right. She can look at the</p> <p>2 portions that are relevant and indicate whether they say</p> <p>3 what they say and whether they mean what -- well, she</p> <p>4 can't say what they mean, but --</p> <p>5 MS. BEARDSLEY: Well, and, I mean, I</p> <p>6 would object to those portions being classified as</p> <p>7 relevant. The portions you're directing to her is what</p> <p>8 I would call them.</p> <p>9 MR. WOOTEN: Certainly. And we're going</p> <p>10 to deal with all that.</p> <p>11 Q. (BY MR. WOOTEN) I'm trying -- like I said,</p> <p>12 I'm trying to cut it down to what we do have to go over,</p> <p>13 but there are certain parts of this that -- one of these</p> <p>14 deals with the definition of a qualified substitute</p> <p>15 mortgage loan, and it's on page 51 of this exhibit.</p> <p>16 A. Uh-huh.</p> <p>17 Q. Rather than have you read that into the</p> <p>18 record, I'll ask you if you would agree that whatever</p> <p>19 definition the parties chose for the definition of a</p> <p>20 qualified substitute mortgage loan is what the</p> <p>21 controlling definition of that loan is for purposes of</p> <p>22 this agreement and the administration of this trust,</p> <p>23 right?</p> <p>24 A. Yeah, I agree with that.</p> <p>25 Q. If you will, let me --</p>
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<p>1 because that is actually a separate contract, which is</p> <p>2 an exhibit.</p> <p>3 MS. BEARDSLEY: Okay. I mean, is it fair</p> <p>4 to stipulate on the record -- I mean, you're</p> <p>5 piecemealing through these documents.</p> <p>6 MR. WOOTEN: Sure.</p> <p>7 MS. BEARDSLEY: I mean, we're not</p> <p>8 reading --</p> <p>9 MR. WOOTEN: No, we're not reading</p> <p>10 through all the documents.</p> <p>11 MS. BEARDSLEY: -- through all these</p> <p>12 documents --</p> <p>13 MR. WOOTEN: No, no, no.</p> <p>14 MS. BEARDSLEY: -- like 17-A is not a</p> <p>15 document that we read through all of. 17 is not one</p> <p>16 that we're going to --</p> <p>17 MR. WOOTEN: No.</p> <p>18 MS. BEARDSLEY: -- read through the</p> <p>19 entire document. And she can't verify other than</p> <p>20 stipulating that this is public record.</p> <p>21 MR. WOOTEN: Sure.</p> <p>22 MS. BEARDSLEY: I'm just saying as much</p> <p>23 as I know you're fixing to attach this whole document to</p> <p>24 the deposition, I mean, she can't verify as to what's in</p> <p>25 the documents collectively.</p>	<p>1 A. (Witness hands document to counsel.)</p> <p>2 Q. This is a long definition. I'll represent to</p> <p>3 you that it comes basically out of the IRS or Internal</p> <p>4 Revenue Service Code. I want to find one portion of</p> <p>5 this.</p> <p>6 You know what? I'll just skip over that.</p> <p>7 That will save us a moment.</p> <p>8 And you would agree with me as a general</p> <p>9 statement that whatever definitions the parties chose</p> <p>10 with respect to this agreement for those terms are the</p> <p>11 definitions that are binding on the parties to the</p> <p>12 trust, right?</p> <p>13 A. Yes.</p> <p>14 Q. Page 61 of the exhibit is a definition of the</p> <p>15 term "trust." And does that indicate that the trust --</p> <p>16 does that tell us what the name of the trust is for this</p> <p>17 Pooling and Servicing Agreement?</p> <p>18 A. Yes.</p> <p>19 Q. And what is that, please, ma'am?</p> <p>20 A. Finance America Mortgage Loan Trust 2001-3.</p> <p>21 Q. Was that 2003-1?</p> <p>22 MS. BEARDSLEY: 2003-1, yeah.</p> <p>23 A. Oh, yeah. Sorry.</p> <p>24 Q. (BY MR. WOOTEN) And is that the same name</p> <p>25 that is present in Exhibit 12 to the motion for relief</p>

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<p>1 from stay in this case?</p> <p>2 And I can just show you the copy I've</p> <p>3 been working off of.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Let me put that form back in the stack.</p> <p>6 The subsection dealing with the</p> <p>7 conveyance of mortgage loans is Section 2.01 of the</p> <p>8 trust agreement.</p> <p>9 MR. WOOTEN: That is page 65, Robin, if</p> <p>10 you want to go to it.</p> <p>11 Q. (BY MR. WOOTEN) The portion highlighted in</p> <p>12 orange, what does that say?</p> <p>13 A. "The depositor, concurrently with the</p> <p>14 execution and delivery hereof, does hereby transfer,</p> <p>15 assign, set over, and otherwise convey in trust to the</p> <p>16 trustee without recourse for the benefit of the</p> <p>17 certificate holders all the right, title, and interest</p> <p>18 of the depositor, including any security interest</p> <p>19 therein for the benefit of the depositor."</p> <p>20 Q. Who is -- do you remember who the depositor</p> <p>21 was in this trust agreement?</p> <p>22 A. Is it Greenwich?</p> <p>23 Q. Financial Asset Securities Corporation?</p> <p>24 A. Which -- I'm confused.</p> <p>25 Q. Look at -- there it is right there in front of</p>	<p>1 four pages.</p> <p>2 Q. (BY MR. WOOTEN) Let's talk about it in that</p> <p>3 first paragraph, okay? Does any portion of that</p> <p>4 document indicate in that first paragraph that any other</p> <p>5 entity deposits to the trust?</p> <p>6 A. No.</p> <p>7 Q. What does the portion that's highlighted in</p> <p>8 purple say?</p> <p>9 A. "Each mortgage loan identified on the mortgage</p> <p>10 loan schedule, including the related cut-off date</p> <p>11 principal balance, all interest accruing thereon on and</p> <p>12 after the cut-off date, and all collections in respect</p> <p>13 of interest and principal due after the cut-off date."</p> <p>14 Q. We talked about the cut-off date being</p> <p>15 November 14th, 2003, right -- or actually the --</p> <p>16 MS. BEARDSLEY: That was the closing</p> <p>17 date.</p> <p>18 Q. (BY MR. WOOTEN) -- cut-off date is June 1st,</p> <p>19 2003. Closing date is November 14th.</p> <p>20 MS. BEARDSLEY: We haven't talked about a</p> <p>21 cut-off date, so let me object to the form of that.</p> <p>22 MR. WOOTEN: We can go back to the</p> <p>23 definitions and look at that so we can make sure we're</p> <p>24 clear on that.</p> <p>25 MS. BEARDSLEY: Well, if it's --</p>
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<p>1 you, this portion of 17-A. That's the deal with the</p> <p>2 Mortgage Loan Purchase Agreement, and you also have the</p> <p>3 definition under the trust agreement in the preamble.</p> <p>4 A. Okay.</p> <p>5 Q. So that is Financial Asset Securities</p> <p>6 Corporation?</p> <p>7 A. Yes.</p> <p>8 Q. They were the purchaser under the Mortgage</p> <p>9 Loan Purchase Agreement, right?</p> <p>10 A. Yes.</p> <p>11 Q. And that says that Financial Asset Securities</p> <p>12 Corporation conveys to the trust, right?</p> <p>13 A. Yes.</p> <p>14 MS. BEARDSLEY: I'm sorry. What says?</p> <p>15 MR. WOOTEN: Section 2.01.</p> <p>16 MS. BEARDSLEY: Okay. Sorry.</p> <p>17 Q. (BY MR. WOOTEN) And it says that they convey</p> <p>18 to the trust all their right, title, and interest to</p> <p>19 these mortgage loans, right?</p> <p>20 MS. BEARDSLEY: Object to the form.</p> <p>21 Q. (BY MR. WOOTEN) Is there any other entity</p> <p>22 identified as conveying any interest in a mortgage loan</p> <p>23 to that trust in that section?</p> <p>24 A. No.</p> <p>25 MS. BEARDSLEY: This section goes on for</p>	<p>1 whatever's in the document says what it says.</p> <p>2 Q. (BY MR. WOOTEN) It says the cut-off date</p> <p>3 is -- there's the definition of cut-off date right</p> <p>4 there, the second yellowed definition. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And actually what does it say the cut-off date</p> <p>7 is?</p> <p>8 A. November 1st, 2003.</p> <p>9 Q. Okay. And that is the same date as the</p> <p>10 Pooling and Servicing Agreement, right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So it says that as of the date of the</p> <p>13 Pooling and Servicing Agreement, the depositor is</p> <p>14 conveying its interest, right?</p> <p>15 MS. BEARDSLEY: Object to the form. I</p> <p>16 mean, it says what it says.</p> <p>17 Q. (BY MR. WOOTEN) Well, we've established that</p> <p>18 the cut-off date is the same date as the Pooling and</p> <p>19 Servicing Agreement, right?</p> <p>20 A. Right.</p> <p>21 Q. And we talked about the closing date being</p> <p>22 November 14th, '03, right?</p> <p>23 A. I don't remember what the date was.</p> <p>24 Q. Okay. Well, again, it's in the definitions,</p> <p>25 so you're comfortable with whatever that is, right?</p>

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<p>1 A. Right.</p> <p>2 Q. What does that portion of that document say --</p> <p>3 let me walk back around, because this is going to take a</p> <p>4 lot longer the other way.</p> <p>5 MS. BEARDSLEY: Nick, I mean, I can see</p> <p>6 that you have a lot to go through, but if we're just</p> <p>7 reading the document, can we please get to questions.</p> <p>8 MR. WOOTEN: Sure.</p> <p>9 Q. (BY MR. WOOTEN) The portion in pink here</p> <p>10 indicates that in connection with such transfer and</p> <p>11 assignment, the depositor, which is FASCO, does hereby</p> <p>12 deliver to, and deposit with the trustee, or its</p> <p>13 designated agent, who is the custodian, the following</p> <p>14 documents or instruments with respect to each mortgage</p> <p>15 loan; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And does that also --</p> <p>18 MS. BEARDSLEY: And that's what it says.</p> <p>19 A. That's what it says.</p> <p>20 Q. (BY MR. WOOTEN) Right. And does that also</p> <p>21 indicate that those documents under this heading -- I</p> <p>22 would call that Roman numeral I -- part of the documents</p> <p>23 are the original mortgage note with all riders, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And it says it will be endorsed either in</p>	<p>1 the same thing, require the same documents?</p> <p>2 MS. BEARDSLEY: Well, I'm going to object</p> <p>3 to whether they require the same documents. I mean,</p> <p>4 that they say the same thing -- but these are in very</p> <p>5 different sections.</p> <p>6 Q. (BY MR. WOOTEN) Does it appear that the items</p> <p>7 requested that are supposed to be present in paragraph 1</p> <p>8 here is the same as the items that are supposed to be</p> <p>9 present in paragraph 1 of 17 of Exhibit 17-A on</p> <p>10 page 269?</p> <p>11 MS. BEARDSLEY: Object to the form.</p> <p>12 A. The paragraph states the same thing in both</p> <p>13 documents.</p> <p>14 Q. (BY MR. WOOTEN) Okay. That was my question.</p> <p>15 On page 67 of Exhibit 17 -- well, I'll</p> <p>16 just withdraw that question.</p> <p>17 Under Subsection 2.02, that heading is</p> <p>18 Acceptance by the Trustee; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And under that subsection, does it indicate</p> <p>21 that the trustee will certify both to the servicer and</p> <p>22 the depositor the receipt of certain documents?</p> <p>23 MS. BEARDSLEY: Nick, I'm going to</p> <p>24 object. It says what it says, and that's all she can</p> <p>25 answer to.</p>
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<p>1 blank, in which case the trustee shall cause the</p> <p>2 endorsement to be completed, or in the following form.</p> <p>3 And it says, "Pay to the order of Deutsche Bank National</p> <p>4 Trust Company, as Trustee, without recourse," correct?</p> <p>5 A. Yes.</p> <p>6 Q. And that is the same endorsement called for</p> <p>7 under 17-A in Article II right here on page 269; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And, in fact, it appears that article -- or</p> <p>11 Item No. 1 in the Pooling and Servicing Agreement and</p> <p>12 Item No. 2 in the Pooling and Servicing Agreement read</p> <p>13 identical to Item No. 1 and Item No. 2 with respect to</p> <p>14 the documents that are required; is that correct?</p> <p>15 I think you can probably actually read on</p> <p>16 if you want to, but I think the same information about</p> <p>17 the documents being required on 270 corresponds with the</p> <p>18 documents being required on 66 with request to the</p> <p>19 mortgage loan and whether it's registered on MERS,</p> <p>20 whether it's assigned in blank.</p> <p>21 This is right here. 2 and 2 go together.</p> <p>22 MS. BEARDSLEY: Your question is -- is</p> <p>23 just that those are the same numbered paragraphs?</p> <p>24 MR. WOOTEN: No.</p> <p>25 Q. (BY MR. WOOTEN) My question is: Do they say</p>	<p>1 MR. WOOTEN: Sure. That's all I asked</p> <p>2 her.</p> <p>3 Q. (BY MR. WOOTEN) Does it say that --</p> <p>4 MS. BEARDSLEY: No, you didn't say -- I</p> <p>5 mean, you're asking her a question to interpret what it</p> <p>6 says, you know.</p> <p>7 Q. (BY MR. WOOTEN) Well, let's do this. Read</p> <p>8 the part in pink there on that page, please, ma'am.</p> <p>9 A. "The trustee agrees to execute and deliver (or</p> <p>10 cause the custodian to execute and deliver) to the</p> <p>11 depositor and the servicer on or prior to the closing</p> <p>12 date an acknowledgment of receipt of the related</p> <p>13 original mortgage note for each mortgage loan (with any</p> <p>14 exceptions noted), substantially in the form attached as</p> <p>15 Exhibit F-3 hereto."</p> <p>16 Q. Let me show you a document that I'm going to</p> <p>17 mark as Exhibit 17-B, which is also an exhibit to the</p> <p>18 Pooling and Servicing Agreement.</p> <p>19 (Plaintiff's Exhibit No. 17-B</p> <p>20 marked for identification.)</p> <p>21 Q. (BY MR. WOOTEN) And it is page 287. And I'll</p> <p>22 ask you if that is a form of Exhibit F-3.</p> <p>23 A. Yes.</p> <p>24 Q. Was a copy of that document present in any of</p> <p>25 the documents produced to my client as part of discovery</p>

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<p>1 in this case?</p> <p>2 MS. BEARDSLEY: Object to the form.</p> <p>3 Q. (BY MR. WOOTEN) To your knowledge.</p> <p>4 A. No.</p> <p>5 Q. Have you ever seen a copy of a document such</p> <p>6 as that prior to today?</p> <p>7 MS. BEARDSLEY: Object to the form.</p> <p>8 A. No.</p> <p>9 Q. (BY MR. WOOTEN) When does it say in that</p> <p>10 document that Exhibit F-3, which I have marked as</p> <p>11 Plaintiff's Exhibit 17-B, will be delivered?</p> <p>12 A. On or prior to the closing date.</p> <p>13 Q. And that was November 14th, 2003, right?</p> <p>14 A. Whatever the closing -- I don't recall what</p> <p>15 the date was, but whatever the closing date is in the</p> <p>16 document, yeah.</p> <p>17 Q. All right. And the paragraph immediately</p> <p>18 beneath that in yellow, do you see a portion that</p> <p>19 discusses an Exhibit F-1?</p> <p>20 A. Yes, I see some context regarding Exhibit F-1.</p> <p>21 Q. Okay. Does that text indicate that that is</p> <p>22 another certification by the trustee both to FASCO and</p> <p>23 to Litton that all of the documents related to the</p> <p>24 mortgage files have been delivered to the trustee as of</p> <p>25 the date of that certification?</p>	<p>1 documents before?</p> <p>2 A. No.</p> <p>3 Q. In your work with Litton, have you ever seen a</p> <p>4 document of that type?</p> <p>5 MS. BEARDSLEY: Object to the form.</p> <p>6 A. No.</p> <p>7 Q. (BY MR. WOOTEN) Okay. If you will, let's put</p> <p>8 17-C on the stack right here with 17-B. And I'm going</p> <p>9 to let you hand me back 68, and I'm going to hand you</p> <p>10 69.</p> <p>11 The portion in green on page 69, that</p> <p>12 discusses Exhibit F-2 and the final certification; is</p> <p>13 that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And it does say that that final certification</p> <p>16 will take place on the one-year anniversary; is that</p> <p>17 correct?</p> <p>18 A. Yes, prior to the first anniversary.</p> <p>19 Q. All right. So according to the trust</p> <p>20 agreement, there were one instance where only the</p> <p>21 possession of the note with proper endorsement should</p> <p>22 have been verified, and that was Exhibit F-3, which we</p> <p>23 marked as 17-B, right?</p> <p>24 MS. BEARDSLEY: Object to the form.</p> <p>25 A. Could you repeat your question.</p>
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<p>1 A. Okay. What was your question again?</p> <p>2 Q. Does that portion of the trust agreement</p> <p>3 indicate that Exhibit F-1 will be delivered to Financial</p> <p>4 Asset Securities Corporation and Litton Loans within a</p> <p>5 certain amount of time after the trust is closed through</p> <p>6 the closing date?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And does it say that that will occur</p> <p>9 within 90 days?</p> <p>10 A. It says in 45 days.</p> <p>11 Q. 45 days?</p> <p>12 A. After the closing date.</p> <p>13 Q. All right.</p> <p>14 (Plaintiff's Exhibit No. 17-C</p> <p>15 marked for identification.)</p> <p>16 Q. (BY MR. WOOTEN) I'm going to show you a</p> <p>17 document I've marked as Plaintiff's Exhibit C. It is a</p> <p>18 front and back. It is two documents, Exhibit F-1 and</p> <p>19 Exhibit F-2.</p> <p>20 Exhibit F-1 is an initial certification,</p> <p>21 which we were just discussing. Exhibit F-2 is a final</p> <p>22 certification, which I'll hand you the form in just a</p> <p>23 second. That says it will be done within a year or on</p> <p>24 the first anniversary of the trust closing date.</p> <p>25 Have you ever seen either of those</p>	<p>1 Q. (BY MR. WOOTEN) Sure. The trust document</p> <p>2 said that the trustee will certify both to Litton and to</p> <p>3 FASCO possession of the note in Exhibit F-3, which we</p> <p>4 have marked as 17-B, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And then Exhibit F-1 was to certify that all</p> <p>7 the documents, including the note and the mortgage, were</p> <p>8 in the possession of the trustee within 45 days of</p> <p>9 November 14th, 2003, correct?</p> <p>10 And if you want to flip back to this part</p> <p>11 of the trust agreement to look at that, you can do that.</p> <p>12 MS. BEARDSLEY: You're asking if the</p> <p>13 trust agreement refers to this Exhibit F-1, F-2, and</p> <p>14 F-3, right?</p> <p>15 Q. (BY MR. WOOTEN) Do you see this part that I</p> <p>16 highlighted there -- I underlined what was already</p> <p>17 highlighted? That deals with Exhibit F-1 being provided</p> <p>18 within 45 days of the closing date, right?</p> <p>19 A. Right.</p> <p>20 MS. BEARDSLEY: That's what it says.</p> <p>21 Q. (BY MR. WOOTEN) And then Exhibit F-2 deals</p> <p>22 with a certification prior to the one-year anniversary</p> <p>23 of the same information, right?</p> <p>24 MS. BEARDSLEY: Nick, we will agree that</p> <p>25 the document says what it says. I mean --</p>

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<p>1 A. I don't know.</p> <p>2 MS. BEARDSLEY: She is not going to be</p> <p>3 able to answer those questions, but the document says</p> <p>4 what it says. And we don't dispute that.</p> <p>5 Q. (BY MR. WOOTEN) Let me see if I can</p> <p>6 short-circuit this a little bit for you, okay?</p> <p>7 You agree with me that the trust required</p> <p>8 certain acts to have taken place by certain times,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And you agree that the trust required that</p> <p>12 Financial Asset Securities Corporation convey the loan</p> <p>13 to the trust, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you agree that there is no evidence that</p> <p>16 Financial Asset Securities Corporation ever had any</p> <p>17 ownership in this mortgage note, based upon the</p> <p>18 documents that you have produced in this lawsuit?</p> <p>19 MS. BEARDSLEY: I'll object to the form,</p> <p>20 because I don't think she can answer that question</p> <p>21 without having reviewed all those documents as to what</p> <p>22 was required under the trust. I mean --</p> <p>23 Q. (BY MR. WOOTEN) We've talked about the</p> <p>24 Mortgage Loan Purchase Agreement, right?</p> <p>25 A. Yes.</p>	<p>1 purchaser. This is 17-A. I mean --</p> <p>2 MR. WOOTEN: Okay. Well, hand it to me</p> <p>3 and I'll show you where it says that, Robin. 17-A deals</p> <p>4 with three parties: the originator, the purchaser, and</p> <p>5 the seller.</p> <p>6 MS. BEARDSLEY: It says seller and</p> <p>7 purchaser. Purchaser is Finance America. It's on the</p> <p>8 front page.</p> <p>9 MR. WOOTEN: Financial Asset Securities</p> <p>10 Corporation is not Finance America.</p> <p>11 MS. BEARDSLEY: Okay.</p> <p>12 MR. WOOTEN: So hold on just a second. I</p> <p>13 want to be real clear about this, because I'm not going</p> <p>14 to hear this when I go back to court with the Judge</p> <p>15 about these questions.</p> <p>16 MS. BEARDSLEY: These are not questions,</p> <p>17 Nick. You have not asked a question in about an hour.</p> <p>18 We're just reading public record documents.</p> <p>19 Q. (BY MR. WOOTEN) I'm going to highlight</p> <p>20 page 271 of Exhibit 17-A and ask you, does that say that</p> <p>21 Finance America, LLC is the originator?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And I'm going to show you page 45</p> <p>24 highlighted in green in the definition section of the</p> <p>25 PSA and ask you, does that say that the originator is</p>
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<p>1 Q. And we've talked about the Pooling and</p> <p>2 Servicing Agreement, right?</p> <p>3 A. Right.</p> <p>4 Q. Both of those documents indicated that</p> <p>5 Greenwich Capital Products bought the loans from someone</p> <p>6 else. We identified Finance America as that someone</p> <p>7 else, as the originator, correct?</p> <p>8 A. I believe so.</p> <p>9 Q. Okay. Would you like for me to show you where</p> <p>10 it's at in the document?</p> <p>11 A. No. I just don't remember all the names, so</p> <p>12 when we keep going back, it's just all running together</p> <p>13 at this point.</p> <p>14 Q. I understand, and I'm trying not to make you</p> <p>15 stay any longer than necessary. And I understand it's</p> <p>16 dense for the first time you've ever seen any of it.</p> <p>17 A. Right.</p> <p>18 Q. But the Mortgage Loan Purchase Agreement says</p> <p>19 that Finance America is the originator, correct?</p> <p>20 A. Right.</p> <p>21 Q. And that is Exhibit 17-A.</p> <p>22 MS. BEARDSLEY: I'm going to object. It</p> <p>23 does not say that Finance America is the originator.</p> <p>24 A. That's a separate document.</p> <p>25 MS. BEARDSLEY: Finance America is the</p>	<p>1 Finance America, LLC?</p> <p>2 A. Yes.</p> <p>3 Q. It does not say that the originator is</p> <p>4 Financial Asset Securities Corporation, does it?</p> <p>5 A. No.</p> <p>6 Q. That is the depositor under the Pooling and</p> <p>7 Servicing Agreement and the purchaser under the Mortgage</p> <p>8 Loan Purchase Agreement; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And they are not the same entity, are they?</p> <p>11 A. No.</p> <p>12 Q. Okay. If you'll let me have that page back,</p> <p>13 I'll put that back in order, please, ma'am.</p> <p>14 A. (Witness hands document to counsel.)</p> <p>15 Q. Thank you.</p> <p>16 Now, having established who the</p> <p>17 originator is, we can agree that in the documents</p> <p>18 produced in this case, there is no endorsement of the</p> <p>19 promissory note from Finance America to Greenwich</p> <p>20 Capital Markets or Financial Assets Securities</p> <p>21 Corporation, is there?</p> <p>22 A. No.</p> <p>23 Q. And we can agree that there is no endorsement</p> <p>24 of the promissory note from Finance America, LLC to</p> <p>25 Deutsche Bank National Trust Company, without recourse,</p>

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<p>1 as required in both the Mortgage Loan Purchase Agreement 2 and the Pooling and Servicing Agreement? 3 MS. BEARDSLEY: I'm going to object to 4 your statement that it's required, because -- 5 MR. WOOTEN: Okay. Well, we'll address 6 that when the time comes, but I promise you it's 7 required. 8 MS. BEARDSLEY: I mean, she can't answer 9 that it's required without having read the full extent 10 of these documents. So, I mean, she's not qualified to 11 answer that question with respect to these documents. 12 MR. WOOTEN: If we need to go ask 13 Greenwich Capital, we will, but the documents are right 14 there. 15 MS. BEARDSLEY: The documents speak for 16 themselves, so -- 17 Q. (BY MR. WOOTEN) And the documents are 18 missing, aren't they? The last endorsement is a blank 19 endorsement by Finance America, is it not? 20 A. Where is it? 21 Q. Here is the note that's marked as Exhibit 10. 22 A. Okay. Can you repeat your question, please. 23 Q. Sure. The question is: In the documents you 24 have produced to us evidencing ownership of this 25 promissory note, there is no endorsement to the Deutsche</p>	<p>1 Q. (BY MR. WOOTEN) And you agree that those 2 allonges are not permanently affixed to or attached to 3 the promissory note in this case, correct? They are not 4 glued, stapled, taped to the promissory note, are they? 5 MS. BEARDSLEY: You mean to the original 6 note? They're stapled right here. I don't understand 7 what your question is. 8 Q. (BY MR. WOOTEN) I just stapled those, right? 9 I stapled those. 10 MS. BEARDSLEY: Well, if you're claiming 11 that I didn't send them to you stapled -- I don't 12 understand your question, Nick. I'm sorry. 13 Q. (BY MR. WOOTEN) Back up and let's explain it. 14 Do you know the purpose of an allonge under the law, 15 ma'am? 16 A. It's to -- I thought it was to reflect the 17 endorsement -- the transfer from one party to the next. 18 Q. Do you know when the law says to use an 19 endorsement? 20 MS. BEARDSLEY: She's -- object to 21 requesting a legal conclusion. She can't answer that 22 question. 23 Q. (BY MR. WOOTEN) I mean, you've been at this 24 eight years. 25 MS. BEARDSLEY: She's not going to answer</p>
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<p>1 Bank National Trust, is there? 2 A. No. 3 Q. The last quote, unquote endorsement is an 4 allonge, which is a separate sheet of paper, unattached 5 to the note in blank in the name of Finance America, 6 right? 7 A. Correct. 8 Q. And so if you assume that the two allonges you 9 have attached are true, they show a transfer from Global 10 Lending or Global Lenders to Finance America and then a 11 blank endorsement, correct? 12 A. Correct. 13 Q. And those allonges are not even present on 14 your motion for relief from stay in November of 2007, 15 are they? 16 A. No, they were not. 17 Q. The fact of the matter is there is nothing on 18 those two pieces of paper that tell us anything about 19 who, when, or why they were created, do they? 20 MS. BEARDSLEY: Which paper are you 21 referring to? 22 MR. WOOTEN: The allonges. 23 MS. BEARDSLEY: Well, there was 24 information on those documents about their dates and 25 creation -- I mean, I don't -- object to the form.</p>	<p>1 a legal question, Nick. 2 Q. (BY MR. WOOTEN) I'm asking what you know 3 about why and when you use an allonge. 4 A. I don't know. 5 Q. Okay. Is it fair to say that there's plenty 6 of room on the front or the back of that promissory note 7 for a stamped endorsement? 8 A. Yeah, that's a fair statement. 9 Q. And is it fair to say that there's nothing 10 that would have prevented anybody from putting the same 11 information that's on the allonges on either the front 12 or the back of the promissory note? 13 A. Not that I know of. 14 Q. Okay. So if the law requires that the 15 promissory note be permanently affixed -- an allonge be 16 permanently affixed to the promissory note in such a way 17 that it cannot be separated, that is not how those 18 documents were produced in discovery, is it? 19 MS. BEARDSLEY: Nick, you're talking 20 about the actual note, which we didn't produce the 21 actual note. I know you understand why we don't produce 22 the actual note. So this is a copy of the note and the 23 allonges that go with it. 24 So however they're affixed from the copy 25 that you got in production was in a CD of documents that</p>

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<p>1 I produced to you. I mean --</p> <p>2 Q. (BY MR. WOOTEN) And my only question about</p> <p>3 that was they were not attached as one continuous</p> <p>4 document so that the allonges would have the same page</p> <p>5 number as the end of the promissory note, right?</p> <p>6 MS. BEARDSLEY: Object to the form.</p> <p>7 A. I don't understand what you're saying.</p> <p>8 Q. (BY MR. WOOTEN) Here's what I'm saying,</p> <p>9 ma'am. There is nothing about that promissory note that</p> <p>10 prevented those endorsements from being made to the</p> <p>11 front or the back in any blank available space regarding</p> <p>12 a change in the ownership of that note.</p> <p>13 A. Yeah, there's space for an endorsement on the</p> <p>14 actual third page of the note.</p> <p>15 Q. Right.</p> <p>16 A. Yes.</p> <p>17 Q. And when you made or filed your motion for</p> <p>18 relief from stay in November 2007, those allonges were</p> <p>19 not present.</p> <p>20 A. Correct.</p> <p>21 Q. And you were looking at the same information</p> <p>22 in 2007 that you were looking at when you responded to</p> <p>23 our discovery, right?</p> <p>24 MS. BEARDSLEY: I don't think she can</p> <p>25 answer the question, because she wouldn't have known</p>	<p>1 Q. You will agree that in none of the documents</p> <p>2 produced to us, which you've represented as Plaintiff's</p> <p>3 Exhibit 10 were all the documents responsive related to</p> <p>4 the ownership of the note and the endorsements and</p> <p>5 allonges thereto, that there is not a document which</p> <p>6 says "Pay to the order of Deutsche Bank National Trust</p> <p>7 Company, as Trustee, without recourse"?</p> <p>8 A. I have not seen -- I have not seen such a</p> <p>9 document with that language.</p> <p>10 Q. And if there were such a document, it would be</p> <p>11 included as part of what you've produced to us with</p> <p>12 respect to the mortgage note and endorsements and</p> <p>13 allonges thereto.</p> <p>14 A. Yeah. If it was within Litton's possession,</p> <p>15 yes.</p> <p>16 Q. And when you say "within Litton's possession,"</p> <p>17 that also encompasses the documents that Litton has</p> <p>18 access to, right?</p> <p>19 MS. BEARDSLEY: Object to the form.</p> <p>20 A. No. That means documents readily available.</p> <p>21 Q. (BY MR. WOOTEN) Okay. Are documents</p> <p>22 evidencing the ownership of the debt readily available</p> <p>23 to Litton through a request to the trustee or custodian?</p> <p>24 A. Yeah, I can't verify that that request was</p> <p>25 made, so I don't know.</p>
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<p>1 what they looked at in 2007.</p> <p>2 Q. (BY MR. WOOTEN) The same information would</p> <p>3 have been available to Litton employees in 2007 when</p> <p>4 this discovery was responded to, correct?</p> <p>5 MS. BEARDSLEY: Object to the form.</p> <p>6 A. I don't know the answer to that.</p> <p>7 Q. (BY MR. WOOTEN) Under paragraph No. 1 under</p> <p>8 Section 2.01, we talked about earlier the fact that that</p> <p>9 says that the mortgage loan, the mortgage note will be</p> <p>10 endorsed either in blank or to the trustee, pay to the</p> <p>11 order of Deutsche Bank National Trust Company, as</p> <p>12 Trustee, without recourse, right?</p> <p>13 MS. BEARDSLEY: Are you referring to the</p> <p>14 very first paragraph?</p> <p>15 Q. (BY MR. WOOTEN) Right down under the part</p> <p>16 where it talks about what documents will be provided to</p> <p>17 the trustee. It's highlighted. We were comparing it to</p> <p>18 the Mortgage Loan Purchase Agreement.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Right?</p> <p>21 A. Yes.</p> <p>22 Q. You will agree that there is no endorsement to</p> <p>23 the name of Deutsche Bank National Trust Company, as</p> <p>24 trustee, without recourse, right?</p> <p>25 A. Huh?</p>	<p>1 Q. I just want to make sure I understand what</p> <p>2 you're saying, ma'am, because we've come all the way to</p> <p>3 Houston to depose Litton Loans about the ownership of</p> <p>4 this debt. And I just want to make sure we're not</p> <p>5 leaving any wiggle room here.</p> <p>6 Is it your testimony that somewhere there</p> <p>7 may be some other documents other than those in</p> <p>8 Exhibit 10 which might have this magic language in it</p> <p>9 that you think would cure this problem?</p> <p>10 A. What I'm saying is the documents that were</p> <p>11 available to me for viewing I have seen being produced</p> <p>12 here. I cannot verify if there was a request made upon</p> <p>13 custodian to produce their files, because I was not</p> <p>14 involved with the production of documents.</p> <p>15 (Plaintiff's Exhibit No. 17-D</p> <p>16 marked for identification.)</p> <p>17 Q. (BY MR. WOOTEN) I'll represent to you that</p> <p>18 this is again another copy of the Pooling and Service</p> <p>19 Agreement. It is also a form exhibit. It is page 283</p> <p>20 of Exhibit 17. And it is entitled Exhibit E, Request</p> <p>21 for Release of Documents.</p> <p>22 I ask you if you've seen that document</p> <p>23 before.</p> <p>24 A. I've seen a document similar to this before.</p> <p>25 Q. Okay. And that's a pretty standard form in</p>



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<p>1 your line of business, isn't it?</p> <p>2 A. Yes.</p> <p>3 Q. And that would allow Litton to obtain any</p> <p>4 documents that it needed from the custodian or trustee</p> <p>5 with respect to this mortgage loan account, correct?</p> <p>6 A. Yeah, it should.</p> <p>7 Q. And you also have the ability to make that</p> <p>8 request electronically also, don't you?</p> <p>9 A. More than likely.</p> <p>10 Q. So, again, I just want to be real sure I hear</p> <p>11 what you're saying.</p> <p>12 Are you testifying that there are</p> <p>13 documents that are responsive to the ownership of this</p> <p>14 loan that are not produced here for this deposition</p> <p>15 today?</p> <p>16 A. As I previously stated, the documents that</p> <p>17 were available to me that I could view have been</p> <p>18 produced here today. I did not verify if a request was</p> <p>19 made upon the custodian to provide us the documents that</p> <p>20 they have in their possession, as I was not involved</p> <p>21 with the production of documents.</p> <p>22 Q. You are aware that someone from Litton signed</p> <p>23 your interrogatories and request for production under</p> <p>24 oath certifying they were accurate, right?</p> <p>25 A. I know that occurs, yes.</p>	<p>1 MS. BEARDSLEY: Right.</p> <p>2 Q. (BY MR. WOOTEN) It's supposed to be part of</p> <p>3 the mortgage file, but what I'm saying is the document</p> <p>4 there, somebody with a word processor and a printer can</p> <p>5 have one whipped off in five minutes, can't they?</p> <p>6 A. I guess they could.</p> <p>7 Q. Right. So, I mean, what's to keep a person,</p> <p>8 who had a mind to, from just typing up a form that has</p> <p>9 this language in it and showing up in court in two weeks</p> <p>10 and saying, "Oh, look, we found it"?</p> <p>11 A. I guess there wouldn't be anything.</p> <p>12 Q. Right. And if that document were to magically</p> <p>13 appear in court and somebody was willing to raise their</p> <p>14 right hand and say, "Whoops, we found it," then you</p> <p>15 could stand there and argue, "Oh, we had it the whole</p> <p>16 time; we just don't know how to get it," right?</p> <p>17 MS. BEARDSLEY: Object to the form.</p> <p>18 She's explained to you that they would have to request</p> <p>19 this from someone else, Nick. Me and you can battle</p> <p>20 over custody later, but to the extent --</p> <p>21 MR. WOOTEN: Well, the problem is --</p> <p>22 MS. BEARDSLEY: -- it's in their custody,</p> <p>23 we have produced the documents in their custody. Making</p> <p>24 a request and getting additional documents from a third</p> <p>25 party is not within their --</p>
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<p>1 Q. You are aware they certified it was complete,</p> <p>2 right?</p> <p>3 A. No.</p> <p>4 Q. Part of the certification is the accuracy of</p> <p>5 the production, right?</p> <p>6 A. Yes.</p> <p>7 Q. Flip back in Exhibit 10 for a minute. Look at</p> <p>8 those allonges.</p> <p>9 How hard would it be for an individual,</p> <p>10 who had a mind to do so, to type up a form like that and</p> <p>11 say, "Whoops, I found it"?</p> <p>12 A. That I don't know.</p> <p>13 Q. I mean, with a word processor, five minutes?</p> <p>14 A. Yeah, that's possible.</p> <p>15 Q. Is there anything on that document that</p> <p>16 indicates when it was produced, who produced it, or</p> <p>17 anything else?</p> <p>18 MS. BEARDSLEY: When you say produced, do</p> <p>19 you mean by me?</p> <p>20 MR. WOOTEN: No. I'm talking about where</p> <p>21 that document came from.</p> <p>22 MS. BEARDSLEY: Okay. Object to the</p> <p>23 form.</p> <p>24 MR. WOOTEN: I understand it was given to</p> <p>25 you.</p>	<p>1 MR. WOOTEN: They're not a third party.</p> <p>2 MS. BEARDSLEY: -- requirements.</p> <p>3 MR. WOOTEN: They're not a third party.</p> <p>4 They're a party to the securitization agreement.</p> <p>5 They're a party to the trust agreement. They're the</p> <p>6 agent of the trustee and custodian. They have a</p> <p>7 one-paragraph form to get whatever documents the</p> <p>8 custodian and trustee have.</p> <p>9 And, I mean, I would think, you know,</p> <p>10 that we would be concerned with what we're facing about</p> <p>11 the possibility it would be real simple for somebody to</p> <p>12 commit fraud.</p> <p>13 MS. BEARDSLEY: Well, I mean --</p> <p>14 MR. WOOTEN: Go ahead. I mean, if you</p> <p>15 want to put something else on the record, go ahead.</p> <p>16 MS. BEARDSLEY: No, I don't need to.</p> <p>17 Q. (BY MR. WOOTEN) Isn't it true, ma'am, that if</p> <p>18 there were stamped endorsements on the promissory note</p> <p>19 reflecting these changes of ownership, that would be</p> <p>20 awful hard to fake after you produced three or four</p> <p>21 copies?</p> <p>22 MS. BEARDSLEY: Object to the form.</p> <p>23 Nick, there is no excuse for you asking questions --</p> <p>24 MR. WOOTEN: I'm not saying she had</p> <p>25 anything to do with that.</p>

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<p>1 MS. BEARDSLEY: -- as though she's</p> <p>2 created or trying to imply that these documents are</p> <p>3 fraudulent in some form, okay? Not at this time,</p> <p>4 there's not. Until you have some reason to make those</p> <p>5 allegations, don't do it now.</p> <p>6 MR. WOOTEN: Okay. Well, then stipulate</p> <p>7 that those are all the documents, and we'll go forward</p> <p>8 under that.</p> <p>9 MS. BEARDSLEY: I'm not stipulating to</p> <p>10 anything.</p> <p>11 MR. WOOTEN: Okay. Well, that's fine.</p> <p>12 We'll go straight back --</p> <p>13 MS. BEARDSLEY: I'm just saying don't ask</p> <p>14 your questions in a manner as though you're accusing</p> <p>15 someone of creating documents that have been produced to</p> <p>16 you during the course of this case.</p> <p>17 MR. WOOTEN: That's right. They have</p> <p>18 been produced as a full and complete production of all</p> <p>19 the documents that your client has. And what I just</p> <p>20 said is true.</p> <p>21 Q. (BY MR. WOOTEN) Do you know -- are you</p> <p>22 familiar with the term "fraud paper"? Have you ever</p> <p>23 heard that?</p> <p>24 MS. BEARDSLEY: Object to the form.</p> <p>25 Q. (BY MR. WOOTEN) I'm just asking about your</p>	<p>1 than an allonge, are there typically ways in which the</p> <p>2 parties certify one to the other the transfer of those</p> <p>3 documents?</p> <p>4 A. No, not other than through the preparation and</p> <p>5 filing of an assignment that I know of.</p> <p>6 Q. And when you see an assignment, it says to</p> <p>7 you, as you testified earlier, that on that day, the</p> <p>8 owner of the debt changed, the possession of the debt,</p> <p>9 to some other party, and so they filed a mortgage</p> <p>10 assignment to memorialize that transfer of ownership,</p> <p>11 right?</p> <p>12 A. Right.</p> <p>13 Q. So when we look at a mortgage assignment dated</p> <p>14 2007 from Finance America to a trust, your logical</p> <p>15 assumption would be that in 2007 Finance America owned</p> <p>16 that note, right?</p> <p>17 A. Right.</p> <p>18 Q. And we both agree that nothing in these</p> <p>19 securitization documents other than a 2003 sales</p> <p>20 agreement says that Finance America had any part in this</p> <p>21 securitization.</p> <p>22 MS. BEARDSLEY: Well, based on --</p> <p>23 MR. WOOTEN: Let her answer.</p> <p>24 MS. BEARDSLEY: Object to the form.</p> <p>25 MR. WOOTEN: Let her answer.</p>
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<p>1 personal knowledge. Have you ever heard anybody use</p> <p>2 that term?</p> <p>3 A. Kind of.</p> <p>4 Q. Okay. And is that a term that sometimes is</p> <p>5 used in conjunction with mortgage lending and servicing</p> <p>6 practices by what some people have sometimes done with</p> <p>7 respect to documents?</p> <p>8 MS. BEARDSLEY: Object to the form.</p> <p>9 We're not going to talk about what just someone in the</p> <p>10 mortgage industry may have done. That has no relevance</p> <p>11 here.</p> <p>12 MR. WOOTEN: You have a right to object</p> <p>13 to the form.</p> <p>14 MS. BEARDSLEY: Object to the form.</p> <p>15 MR. WOOTEN: You don't have a right to</p> <p>16 instruct her not to answer or control her testimony.</p> <p>17 Q. (BY MR. WOOTEN) I'm asking you, have you</p> <p>18 heard the term "fraud paper" before?</p> <p>19 A. Yes.</p> <p>20 Q. And what do you understand that term to mean?</p> <p>21 A. That people state that there may have been</p> <p>22 documents that they may not have seen or executed.</p> <p>23 Q. Okay. And with respect to documents where</p> <p>24 there are alleged changes of ownership, particularly</p> <p>25 with something as valuable as a promissory note, other</p>	<p>1 Q. (BY MR. WOOTEN) What was the answer, ma'am?</p> <p>2 Is that where they're at, 2003, as the originator,</p> <p>3 right?</p> <p>4 A. November.</p> <p>5 Q. November 12th, 2003, right?</p> <p>6 A. I don't know the exact date, but</p> <p>7 November 2003, right.</p> <p>8 Q. Okay. And we all agree that nothing in this</p> <p>9 trust, nothing anywhere in any of these hundreds of</p> <p>10 pages, says anything about anybody acquiring ownership</p> <p>11 in 2007, does it?</p> <p>12 A. No.</p> <p>13 Q. Okay. And we both agree that these documents</p> <p>14 in 2003 said that there are at least two parties,</p> <p>15 Greenwich Capital and Financial -- FASCO, Financial</p> <p>16 Asset Securities Company, that don't appear anywhere in</p> <p>17 your mortgage loan file as ever having any interest in</p> <p>18 that loan, either by an assignment or an endorsement to</p> <p>19 that note, right?</p> <p>20 A. That's correct.</p> <p>21 Q. And you could assume as someone with years of</p> <p>22 experience that if they were in the chain of ownership,</p> <p>23 they would appear there in these records, right?</p> <p>24 A. Correct.</p> <p>25 Q. And is it fair to say if you had documents</p>

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<p>1 evidencing that, you would have produced them if they 2 were requested? 3 A. That's correct. 4 Q. Again, Litton Loans would not withhold 5 documents and say to the Court in the Middle District of 6 Alabama that it had given the Court everything when it 7 had other documents, right? 8 A. Right. 9 Q. Have you ever had any training with something 10 called the alphabet problem? 11 A. Not that I know of. 12 Q. Have you ever had training with respect to 13 breaks in the chain of assignments and endorsements of a 14 promissory note? 15 A. No. 16 Q. Do you have a page of the PSA over there, 17 No. 65 and 66, in front of you? 18 A. (Witness hands document to counsel.) 19 Q. I'm trying to keep this together. 20 Are you familiar with whether or not 21 either the IRS tax code or New York trust law places 22 limitation on the right of these trusts to acquire 23 assets? 24 MS. BEARDSLEY: I'm going to object to 25 that as a legal question she can't answer.</p>	<p>1 A. No. 2 Q. Article IX of the trust agreement deals with 3 REMIC administration. That subsection, what is the 4 heading of 9.01? 5 A. REMIC Administration. 6 Q. Does the first portion that I highlighted in 7 orange restate the preliminary statement that the trust 8 is formed to create a REMIC interest in the corpus of 9 the trust or the assets of the trust? 10 A. I don't get that out of this, but -- 11 Q. Okay. It says in subparagraph (a) that "REMIC 12 elections as set forth in the preliminary statement" -- 13 which was the part we read at the beginning -- "shall be 14 made by the trustee on Form 1066 or other appropriate 15 federal tax or information return"; is that right? 16 A. Yes. 17 Q. Okay. And does the next paragraph deal with 18 the trustee's obligation to file tax returns? What does 19 the next highlighted portion say? 20 A. "The closing date is hereby designated as the 21 startup day of each REMIC within the meaning of 22 Section 860G(a), Section 9, of the code." 23 Q. Okay. And what's the next highlighted portion 24 of that document? 25 A. "The trustee shall prepare, sign, and file all</p>
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<p>1 Q. (BY MR. WOOTEN) I'm just asking you if you 2 have any idea. 3 A. No. 4 Q. You've probably never been to a class on 5 securitization, have you? 6 A. Yes. 7 Q. You had to? Did they ever talk about changing 8 ownership and true sales and things like that? 9 A. Yes. 10 Q. What's your understanding of a true sale? 11 A. I don't have one. It was many years ago. 12 Q. Okay. Are you familiar with the concept of 13 bankruptcy remoteness? 14 A. No. 15 Q. Do you remember reading the portion when we 16 first started talking about this trust instrument that 17 said that they were creating REMIC certificates, a REMIC 18 trust with this Pooling and Servicing Agreement? 19 A. Yes. 20 Q. And we talked about the fact that a REMIC was 21 a term of art from the IRS tax code and was a type of 22 investment. 23 A. Yes. 24 Q. And you know that much about that process, 25 right? You're familiar with that concept?</p>	<p>1 of the REMICs' federal and state tax and information 2 returns (including Form 8811) as the direct 3 representative each REMIC created hereunder." 4 Q. And remember we talked about 12 classes of 5 certificates and 12 interests in the beginning, which 6 you read from the first section? 7 A. Yes. 8 Q. If you will, I'd like for you to look at 9 page 150 of that document. You have a subpart there. I 10 believe it's identified as subpart (f); is that correct? 11 A. Yes. 12 Q. And does that -- the summary of the portion 13 highlighted in blue and orange, does that indicate that 14 the parties to the securitization, of which Litton is 15 one, will do basically whatever they need to do to 16 preserve the REMIC status of the trust and not do 17 anything that would jeopardize the REMIC status of the 18 trust? 19 MS. BEARDSLEY: Object to the form. 20 A. Can you restate your question, please. 21 Q. (BY MR. WOOTEN) Sure. What I said was a 22 summary of that paragraph basically was that the trustee 23 and servicer and depositor will basically do what was 24 necessary to preserve and maintain the REMIC status of 25 the trust.</p>

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<p>1 A. Yes, that's what it states.</p> <p>2 Q. Okay. And that's dealing with the compliance</p> <p>3 with the REMIC provisions of the tax code? Is that your</p> <p>4 understanding?</p> <p>5 MS. BEARDSLEY: Object to the form.</p> <p>6 Q. (BY MR. WOOTEN) From reading that paragraph,</p> <p>7 is that your understanding? It's dealing with</p> <p>8 compliance of -- with the REMIC provisions of the tax</p> <p>9 code?</p> <p>10 MS. BEARDSLEY: Object to the form.</p> <p>11 A. That's what it states. I don't have an</p> <p>12 understanding one way or the other.</p> <p>13 Q. (BY MR. WOOTEN) Under this paragraph, there's</p> <p>14 a portion that's highlighted in pink, and it talks about</p> <p>15 prohibited contributions or prohibited transactions.</p> <p>16 Those terms are defined either by the Pooling and</p> <p>17 Servicing Agreement or IRS tax code. Do you have any</p> <p>18 knowledge of what a prohibited contribution or</p> <p>19 prohibited transaction is?</p> <p>20 MS. BEARDSLEY: Object to the form.</p> <p>21 A. No.</p> <p>22 Q. (BY MR. WOOTEN) Okay. Down below that</p> <p>23 portion highlighted in pink, there's a portion</p> <p>24 highlighted in yellow, I believe. What does that</p> <p>25 highlighted portion say?</p>	<p>1 record, please.</p> <p>2 MS. BEARDSLEY: Paragraph 9.02? The</p> <p>3 paragraph says what it says. There's no need to have</p> <p>4 the court reporter type all of 9.02. It's already typed</p> <p>5 right there.</p> <p>6 Q. (BY MR. WOOTEN) You and I talked about the</p> <p>7 closing date earlier.</p> <p>8 A. Right.</p> <p>9 Q. And you say it makes sense that you couldn't</p> <p>10 acquire assets after the closing date, right?</p> <p>11 A. Right.</p> <p>12 Q. Is that a summary of what the portion in pink</p> <p>13 says?</p> <p>14 MS. BEARDSLEY: Object to the form.</p> <p>15 A. Yes.</p> <p>16 Q. (BY MR. WOOTEN) And the first indication of</p> <p>17 an official record that that note was transferred into</p> <p>18 this trust would be the assignment in 2007 from Finance</p> <p>19 America directly to the trust, right?</p> <p>20 A. Correct.</p> <p>21 Q. Page 70 of Exhibit 17, there's an orange</p> <p>22 highlighted portion at the bottom of that page. What</p> <p>23 does it say?</p> <p>24 A. "Any substitution of qualified substitute</p> <p>25 mortgage loans for deleted mortgage loans made pursuant</p>
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<p>1 A. "No additional contributions of assets shall</p> <p>2 be made to any REMIC created hereunder, except as</p> <p>3 expressly provided in this agreement with respect to</p> <p>4 eligible substitute mortgage loans."</p> <p>5 Q. Do you remember we looked at that big</p> <p>6 definition of a qualified substitute mortgage loan</p> <p>7 earlier in the definition section?</p> <p>8 A. I do not remember.</p> <p>9 Q. You'll agree that that definition is the</p> <p>10 party's definition for purposes of this agreement,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And if there is a time limit under which a</p> <p>14 qualified substitute mortgage loan can be placed into</p> <p>15 the trust, you agree that the parties have to comply</p> <p>16 with that, right?</p> <p>17 A. Yes.</p> <p>18 Q. Section 9.02, would you read into the record</p> <p>19 the heading of that section.</p> <p>20 A. "Prohibited Transactions and Activities."</p> <p>21 Q. There's a portion highlighted in pink in that</p> <p>22 section. What does the portion highlighted in pink say?</p> <p>23 MS. BEARDSLEY: Object to the form.</p> <p>24 Q. (BY MR. WOOTEN) Let's do this. That's a</p> <p>25 short paragraph. Just read the whole paragraph into the</p>	<p>1 to Section 2.03(a) must be effected prior to the last</p> <p>2 business day that is within two years after the closing</p> <p>3 date. As to any deleted mortgage loan for which the" --</p> <p>4 Q. You need page 71?</p> <p>5 A. -- "for which the originator or the seller, as</p> <p>6 applicable, substitutes a qualified substitute mortgage</p> <p>7 loan or loans" -- how far do you want me to read?</p> <p>8 Q. That's fine. That's a period, isn't it?</p> <p>9 A. No. I don't think there is one until the very</p> <p>10 end.</p> <p>11 Q. You can just pause.</p> <p>12 A. Okay.</p> <p>13 Q. The main thing I was looking at is that in the</p> <p>14 orange section that you began at, it says if there is a</p> <p>15 substitute and it meets the definition, it has to occur</p> <p>16 within two years of the trust closing date, right? The</p> <p>17 orange highlighted part.</p> <p>18 A. Uh-huh.</p> <p>19 Q. Okay. An assignment in 2007, assuming all</p> <p>20 things else are equal and that the owner in 2007 of the</p> <p>21 note was Finance America and they were trying to assign</p> <p>22 to the trust in 2007 --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- we all agree is more than two years from</p> <p>25 November 12th or 14th of 2003, right?</p>

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<p>1 MS. BEARDSLEY: I have to object to the</p> <p>2 form. This was a MERS loan, so to say that the</p> <p>3 assignment was from Finance America -- it's actually</p> <p>4 from MERS. So I don't know if you -- just to --</p> <p>5 MR. WOOTEN: Well, it's interesting. Not</p> <p>6 that long ago, I got through taking a deposition of the</p> <p>7 CEO of MERS, and we talked about those things.</p> <p>8 MS. BEARDSLEY: I just wanted to be</p> <p>9 accurate for the record when you're referring to an</p> <p>10 assignment of mortgage.</p> <p>11 MR. WOOTEN: Sure.</p> <p>12 Q. (BY MR. WOOTEN) And when you read that</p> <p>13 assignment of mortgage in the way that it's written, it</p> <p>14 says to you that MERS is assigning on behalf of Finance</p> <p>15 America, right?</p> <p>16 A. Yes.</p> <p>17 Q. And you've already testified earlier that you</p> <p>18 agree that the owner of the debt is the person who has</p> <p>19 the right to assign, correct?</p> <p>20 A. Right.</p> <p>21 Q. So I'm deposing you from Litton. Obviously we</p> <p>22 don't have anybody here from Finance America, but based</p> <p>23 on your experience and training, that assignment says to</p> <p>24 you that on that day, Finance America owned that</p> <p>25 promissory note, right?</p>	<p>1 Q. Okay. There is nothing that I presented here</p> <p>2 today that says that this trust owns this loan, is</p> <p>3 there, other than that assignment in 2007?</p> <p>4 A. That's correct.</p> <p>5 Q. And the plain language of all the documents</p> <p>6 that I've shown you say that not only did this trust not</p> <p>7 acquire this loan in 2003, but the attempted assignment</p> <p>8 to this trust in 2007 was out of time, right?</p> <p>9 MS. BEARDSLEY: Object to the form.</p> <p>10 Q. (BY MR. WOOTEN) Well, she can object to the</p> <p>11 form, but you have the right to answer.</p> <p>12 MS. BEARDSLEY: I mean, she has not had a</p> <p>13 chance to review the entire --</p> <p>14 MR. WOOTEN: Sure.</p> <p>15 MS. BEARDSLEY: -- Pooling and Servicing</p> <p>16 Agreement, so based upon the select things that you have</p> <p>17 chosen to read -- but the references to MERS throughout</p> <p>18 the Pooling and Servicing Agreement --</p> <p>19 MR. WOOTEN: Do you think that cures an</p> <p>20 ownership problem with a note?</p> <p>21 MS. BEARDSLEY: I'm just saying that --</p> <p>22 Q. (BY MR. WOOTEN) Well, let me ask you</p> <p>23 because --</p> <p>24 MS. BEARDSLEY: I'm just objecting to the</p> <p>25 form. I'm sorry.</p>
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<p>1 A. Yes.</p> <p>2 Q. And that's based on your understanding of what</p> <p>3 the authorities and rights are of a MERS member to</p> <p>4 assign a mortgage in MERS' name, right?</p> <p>5 A. Right.</p> <p>6 Q. Now, it seems fairly logical to me, but I just</p> <p>7 want to make sure you and I agree that if this trust</p> <p>8 became the owner of this loan in 2003, that it would be</p> <p>9 impossible for Finance America to make an assignment of</p> <p>10 the same note in 2007, wouldn't it?</p> <p>11 MS. BEARDSLEY: Object to the form.</p> <p>12 A. Can you restate, please.</p> <p>13 Q. (BY MR. WOOTEN) Sure. I said it seems fairly</p> <p>14 logical to me that if this loan were sold to this trust</p> <p>15 in 2003, that it would be impossible for Finance America</p> <p>16 to be the owner of this note in 2007 and be assigning it</p> <p>17 to this trust.</p> <p>18 A. Yeah. That's questionable.</p> <p>19 MS. BEARDSLEY: Object to the form.</p> <p>20 Q. (BY MR. WOOTEN) That's questionable? Why do</p> <p>21 you say that's questionable?</p> <p>22 A. Based on the information that you've presented</p> <p>23 here today, it's questionable.</p> <p>24 Q. Whether the trust owns the loan?</p> <p>25 A. Right.</p>	<p>1 Q. (BY MR. WOOTEN) -- Robin's not being deposed</p> <p>2 and --</p> <p>3 MS. BEARDSLEY: I'm objecting to the</p> <p>4 form.</p> <p>5 Q. (BY MR. WOOTEN) -- and we always have</p> <p>6 philosophical differences about documents. It's nothing</p> <p>7 personal. I don't want you to think it is.</p> <p>8 My point being you're familiar with MERS</p> <p>9 generally.</p> <p>10 A. Yes.</p> <p>11 Q. And generally speaking, a requirement of</p> <p>12 exercising signing authority in MERS' name of an</p> <p>13 assignment of mortgage is that you are exercising that</p> <p>14 authority on behalf of the note owner.</p> <p>15 A. Yes.</p> <p>16 Q. And I have the transcript of Mr. Arnold here</p> <p>17 if you want to compare what he says about it.</p> <p>18 MS. BEARDSLEY: I object. We're not</p> <p>19 going to compare testimony.</p> <p>20 MR. WOOTEN: In fact, I think just to be</p> <p>21 safe, I want to offer it as an exhibit.</p> <p>22 MS. BEARDSLEY: Whose testimony?</p> <p>23 MR. WOOTEN: The CEO of MERS.</p> <p>24 (Plaintiff's Exhibit No. 19</p> <p>25 marked for identification.)</p>

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<p>1 Q. (BY MR. WOOTEN) And I'll represent to you 2 that I took this deposition in Washington, D.C., on 3 September 25th, 2009. We began at 10:10 a.m. And that 4 is Mr. Arnold's deposition transcript. 5 And since that's been questioned, I want 6 to refer you to a couple of points. 7 MS. BEARDSLEY: Nick, the deposition says 8 whatever it says. 9 MR. WOOTEN: Sure. 10 MS. BEARDSLEY: She's not going to be 11 able to testify to anything as it relates to another 12 lawsuit and another deposition from someone that's 13 unrelated to this case. 14 MR. WOOTEN: Sure. 15 Q. (BY MR. WOOTEN) We're talking about the CEO 16 of MERS, okay, the person who designed the system, the 17 person who came up with the concept. Do you think he 18 has a pretty good idea of how it's supposed to work? 19 MS. BEARDSLEY: Nick, she has no 20 knowledge of that. This is so far outside the scope. 21 MR. WOOTEN: Well, she's talking -- 22 you're saying that you can execute a MERS assignment in 23 2007 when ownership of the note allegedly transferred in 24 2003. And she is saying what Mr. Arnold said, which is 25 the owner of the debt is the person who has the right to</p>	<p>1 Q. And is it fair to say that if Finance America 2 did not own the note on that day, that that assignment 3 would be meaningless? 4 A. Yeah, that's possible. 5 Q. Because we talked about, very early on, you 6 can't assign what you don't own, can you? 7 A. Not supposed to. 8 Q. When I deposed Mr. Arnold in September -- if 9 you want to pick up that transcript that's marked 10 No. 19, Ms. Mosley, and look at page 21 of the condensed 11 version. There are four pages. It's the top right 12 page. On that fourth page, you'll see page No. 83 13 indicated. 14 A. Uh-huh. Okay. 15 Q. It says that -- the question to Mr. Arnold 16 was: "You won't go beyond what your membership 17 agreement says you can do, will you?" 18 And he answered no. 19 Is that correct? 20 A. Yes. 21 Q. And then I asked Mr. Arnold: "I mean, in 22 fact, you say that you will take your instructions from 23 the owner of the debt, right?" 24 And he answered yes. 25 Correct?</p>
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<p>1 use MERS' name to transfer a mortgage out of MERS' 2 system. 3 Q. (BY MR. WOOTEN) Is that your understanding of 4 how the system works? 5 A. Yes. 6 Q. So, again, if you saw a mortgage assignment 7 from MERS in 2007 from anyone's name to someone else's 8 name, the person that MERS was signing for, you would 9 interpret that to mean they owned the debt that day, 10 right? 11 A. Yes. 12 Q. Do you know whether this trust, Finance 13 America Mortgage Loan Trust 2003-1, is a MERS member? 14 A. I do not know. 15 Q. Okay. Are you familiar with MERS' rules which 16 require that when the ownership of a debt leaves the 17 ownership of a MERS member that the mortgage be assigned 18 out of the MERS system? 19 A. Yes. 20 Q. So in reading the assignment from 2007 from 21 MERS on behalf of Finance America to this trust, is that 22 another indication that the ownership went from Finance 23 America on that day to this particular trust so that it 24 went off of the MERS system? 25 A. I don't know. It would be purely a guess.</p>	<p>1 A. Yes. 2 Q. Now, he then went off and talked about 3 obligations to the public, but your understanding of the 4 MERS system agrees with that testimony, that MERS takes 5 their instructions from the owner of the debt, right? 6 A. Right. 7 Q. And if a membership agreement says that you 8 cannot assign a debt unless you own it, that would be at 9 least a part of the reason that you believe Finance 10 America would have owned the debt based on the 2007 11 assignment, right? 12 A. Right. 13 Q. Are you familiar with Finance America at all? 14 A. I am not. 15 Q. Do you have any idea how many millions of 16 dollars of mortgages they might have originated in 2003? 17 A. No. 18 Q. Is it possible, Ms. Mosley, that maybe Finance 19 America did mean to send this loan to this trust but 20 just didn't do it? 21 A. I have no knowledge to be able to know that 22 one way or the other. 23 Q. With respect to the documents we've gone over 24 today, other than the 2007 assignment, is there any 25 document in your file or in any of the documents in the</p>

<p style="text-align: right;">Page 249</p> <p>1 securitization agreements that indicate that this trust 2 acquired this loan in 2003? 3 MS. BEARDSLEY: Object to the form. 4 A. Say that again. Is there -- 5 Q. (BY MR. WOOTEN) Excluding the 2007 6 assignment -- 7 A. Okay. 8 Q. -- which is from Finance America to the 9 trust -- 10 A. Uh-huh. 11 Q. -- in MERS' name -- 12 A. Okay. 13 Q. -- is there any document that we've gone over 14 today that says that this trust became the owner of this 15 loan in compliance with these documents that we've gone 16 over? 17 A. No. 18 MR. WOOTEN: Okay. Ms. Mosley, I think 19 I'm going to go ahead and stop now so that you can rest, 20 unless Ms. Beardsley wants to ask you some questions. 21 MS. BEARDSLEY: I mean, I don't have any 22 questions for her. 23 (Off the record at 4:08 p.m.) 24 * * * * * 25</p>	<p style="text-align: right;">Page 251</p> <p>1 transcript was not submitted to the witness for 2 examination and signature, examination and signature 3 having been waived by the witness and all parties 4 present at the time of the deposition. 5 I further certify that I am neither 6 attorney or counsel for, nor related to or employed by 7 any of the parties to the action in which this 8 deposition is taken, and further that I am not a 9 relative or employee of any attorney or counsel employed 10 by the parties hereto, or financially interested in the 11 action. 12 I further certify that charges for the 13 preparation of the foregoing completed deposition were 14 \$ for the original thereof, charged to 15 Attorney(s) for Plaintiff. 16 Certified to by me this 19th day of 17 October, 2009. 18 19 20 Melodie I. Thompson 21 CSR No. 7039, Expires 12/31/2009 22 Notary Public, State of Texas 23 Commission Expires 7/16/2012 24 Allied Advanced Reporting, Inc. 25 Texas CRCB Firm Registration No. 252 1647 Colquitt Houston, Texas 77006 713.524.6777 1.800.223.9409 AlliedAdvancedReporting.com</p>
<p style="text-align: right;">Page 250</p> <p>1 REPORTER'S CERTIFICATION 2 ORAL DEPOSITION OF 3 DAPHNE MOSLEY, 4 ON BEHALF OF LITTON LOAN SERVICING 5 October 14, 2009 6 7 STATE OF TEXAS : 8 COUNTY OF HARRIS : 9 10 I, Melodie I. Thompson, a Certified 11 Shorthand Reporter and Notary Public in and for the 12 State of Texas, do hereby certify that the facts stated 13 by me in the caption hereto are true; that the foregoing 14 deposition of DAPHNE MOSLEY, ON BEHALF OF LITTON LOAN 15 SERVICING, the witness hereinbefore named, was taken by 16 me in machine shorthand, the said witness having been by 17 me first duly cautioned and sworn to tell the truth, the 18 whole truth, and nothing but the truth, and later 19 transcribed from my machine shorthand notes to 20 typewritten form by me. 21 I further certify that the above and 22 foregoing deposition, as set forth in typewriting, is a 23 full, true and correct transcript of the proceedings had 24 at the time of taking said deposition. 25 I further certify that the deposition</p>	<p style="text-align: right;">Page 252</p> <p>1 INDEX 2 FOR THE DEPOSITION OF 3 DAPHNE MOSLEY, 4 ON BEHALF OF LITTON LOAN SERVICING 5 October 14, 2009 6 7 Page 8 APPEARANCES.....2 9 EXAMINATION BY MR. WOOTEN.....3 10 REPORTER'S CERTIFICATION.....250 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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